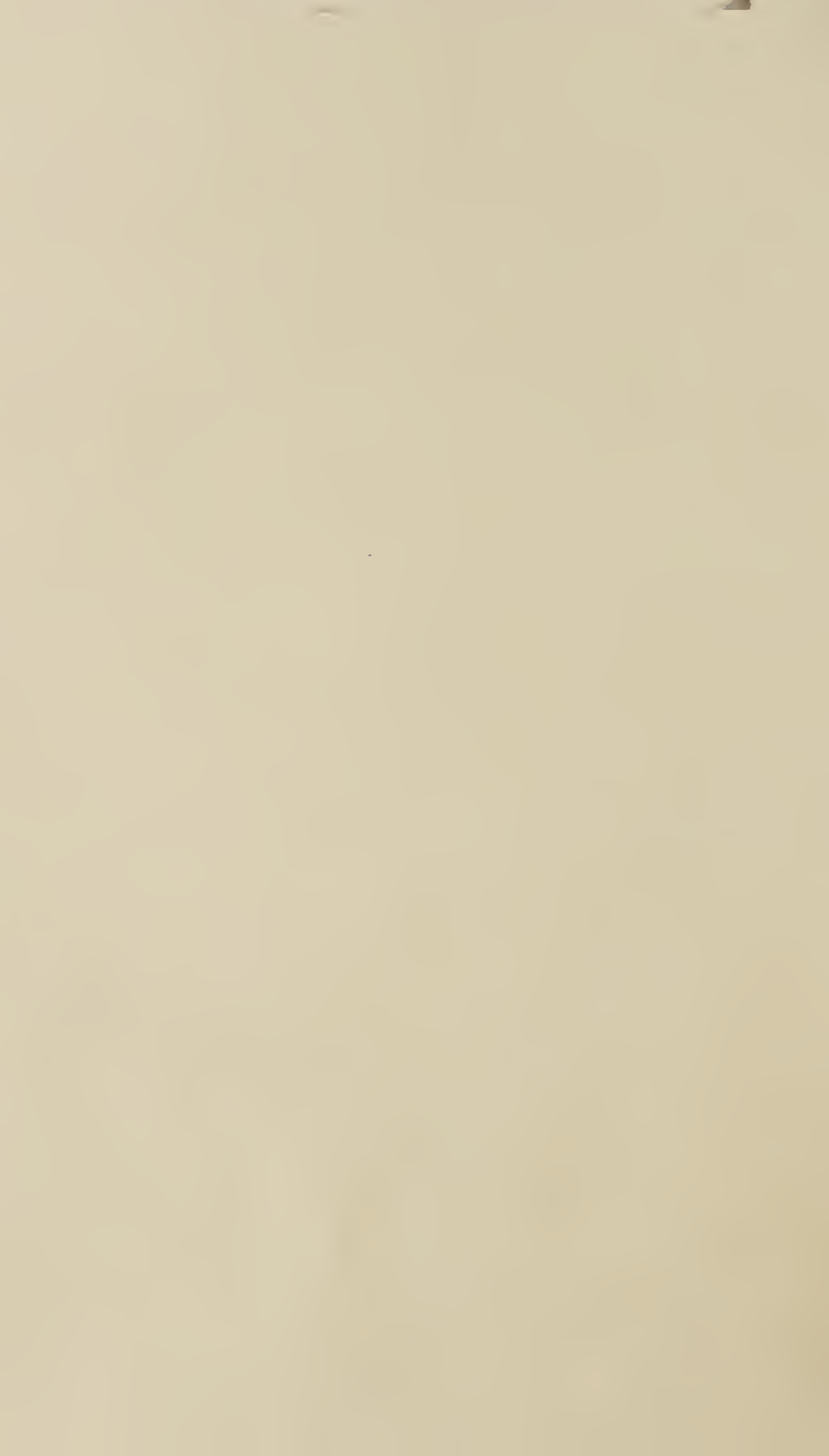


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MULTIPLE SURFACE USES OF THE PUBLIC DOMAIN

HEARINGS BEFORE THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS UNITED STATES SENATE EIGHTY-FOURTH CONGRESS FIRST SESSION ON **S. 1713**

A BILL TO AMEND THE ACT OF JULY 31, 1947 (61 STAT. 681),
AND THE MINING LAWS TO PROVIDE FOR MULTIPLE USE
OF THE SURFACE OF THE SAME TRACTS OF THE PUBLIC
LANDS, AND FOR OTHER PURPOSES

MAY 18 AND 19, 1955

Printed for the use of the Committee on Interior and Insular Affairs



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CONTENTS

	Page
Text of H. R. 100	12
Text of S. 1149	12
Text of S. 1502	13
Text of S. 1713	2
Reports:	
Department of Agriculture	9
Department of the Interior	6
Statement of—	
Bennett, Elmer F., legislative counsel, Department of the Interior ..	54
Besley, Lowell, executive director-forester, the American Forestry Association	121
Callison, Charles H., conservation director, National Wildlife Federation	131
Granger, Christopher M., representing the Independent Timber Farmers of America	183
Hagenstein, W. D., managing director, Industrial Forestry Association, Portland, Oreg	80
Hoffman, Lewis E., Chief, Mineral Division, Bureau of Land Management, Department of the Interior	54
Holbrook, Raymond B., Attorney, United States Smelting, Refining & Mining Co., and chairman of the public lands committee of the American Mining Congress	16, 146
Hudoba, Michael, Washington representative, Sports Afield magazine	170
Malone, Hon. George W., United States Senator from the State of Nevada	206
McArdle, Richard E., Chief, Forest Service, Department of Agriculture	107
Palmer, Robert S., executive vice president, Colorado Mining Association	186
Thompson, Perry A., secretary-manager, Western Lumber Manufacturers, Inc., San Francisco, Calif	92
Woozley, Edward, Director of the Bureau of Land Management, Department of the Interior	54
Additional information:	
Analysis of mining claims on national forests as of January 1, 1952, and 1955—Estimates prepared (from figures published by the U. S. Forest Service) by the American Forestry Association, May 1, 1955 ..	124
Annual log harvest and annual allowable harvest for national forests in Douglas fir region of western Washington and Oregon	81
Letters and telegrams:	
Gordon, Seth, director, State of California Department of Fish and Game, to Charles H. Callison, secretary, National Wildlife Federation, Jan. 13, 1955	134
Kreft, Dr. Alfred J., past president, Portland (Oreg.) Chapter, Iszaak Walton League of America, to Hon. Clinton Anderson, May 11, 1955, and enclosure	182
Moir, Stuart, forest counsel, Western Forestry and Conservation Association, to Hon. Clinton Anderson, May 12, 1955	184
Mollin, F. E., executive secretary, American National Cattlemen's Association	185
Murphey, C. H., executive director, New Mexico Mining Association, to chairman, April 29, 1955	185
Packard, Fred M., executive secretary, National Parks Association, Washington, D. C., to chairman, May 16, 1955	176

Additional information—Continued

Letters and telegrams—Continued

Patton, Robert T., Western Oil & Gas Association, to Frank W. Rogers, Western Oil & Gas Association, Washington, D. C., May 12, 1955.....	204
Penfold, J. W., western representative, the Iszaak Walton League of America, Inc., Denver, Colo., to chairman, May 16, 1955.....	182
Rogers, Frank W., Washington representative, Western Oil & Gas Association, Los Angeles, Calif., to Hon. Clinton P. Anderson, May 17, 1955, and enclosure.....	204
Voight, William, executive director, the Iszaak Walton League of America, Inc., Chicago, Ill., to Hon. Walter Rogers, May 3, 1955.....	176
Map showing Upper Calapooya mining claims.....	91
Opinion of Edmund G. Brown, attorney general, and Ralph W. Scott, deputy attorney general, State of California.....	135
Realistic Mining-Timber Act, editorial in the Oregon Journal.....	183
Resolution of the American Forestry Association.....	128
Rules of practice.....	156
Sample editorials in California papers.....	97
Samples of mining claim conflicts in national forests of the California region.....	102

MULTIPLE SURFACE USES OF THE PUBLIC DOMAIN

WEDNESDAY, MAY 18, 1955

UNITED STATES SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D. C.

The committee met at 10 a. m., pursuant to call, in room 224, Senate Office Building, Hon. Clinton P. Anderson presiding.

Present: Senators Anderson, Bible, Neuberger, Millikin, Malone, Watkins, Dworshak, Kuchel, and Barrett.

Present also: Stewart French, chief counsel, and N. D. McSherry, assistant chief clerk.

Senator ANDERSON. The distinguished chairman of the committee, Senator James E. Murray, of Montana, has asked me to preside at these hearings. We are considering S. 1713, a bill I had the honor of sponsoring along with Senators Aiken, Bennett, Watkins, and Barrett, to prevent abuses of the mining laws and to provide for increased development of the surface resources of the public lands.

At the executive session of the full committee yesterday it was agreed that we would also consider three bills to provide for mining location on public lands withdrawn for power site purposes. These bills are Congressman Engle's H. R. 100, Senator Watkins' S. 1149 and Senator Barrett's S. 1502.

May I say there that inadvertently the impression was left that we would have a hearing on all of those bills at the same time this morning. That was not the intention. The intention was to call the bills back for the consideration of the subcommittee, so that if any of the testimony on S. 1713 had a bearing on any of the other bills, we could take such testimony into consideration. Also we could then decide whether H. R. 100 should be reported, or one of the Senate bills should be reported, or a combination of them.

Senator BARRETT. Mr. Chairman, I talked to a number of the members of the subcommittee, and I am sure they are all agreeable to the statement you just made. They would like to have an opportunity to make a study of these three bills in the subcommittee before the full committee again takes up the matter.

Senator ANDERSON. Yes. Well, frankly, Senator Barrett, I would like a chance to examine those two bills, even though I think they are very much like H. R. 100, and find out whether there are some changes that perhaps should be made in H. R. 100.

Since the power site measures do have some general bearing in this field, I think it would be a good thing if in the hearing at this point we put not only the text of S. 1713, but the text of these other three bills. Particularly, there should be set forth the text of H. R. 100, as it was reported by the subcommittee to the full committee, and the comments of the executive agencies on them.

(The bills and reports referred to are as follows:)

[S. 1713, 84th Cong., 1st sess.]

A BILL To amend the Act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of July 31, 1947 (61 Stat. 681), is amended to read as follows:

"SECTION 1. The Secretary, under such rules and regulations as he may prescribe, may dispose of mineral materials (including but not limited to, sand, stone, gravel, pumice, pumicite, cinders, and clay) and vegetative materials (including but not limited to yucca, manzanita, mesquite, cactus, and timber or other forest products) on public lands of the United States, if the disposal of such mineral or vegetative materials (1) is not otherwise expressly authorized by law, including the United States mining laws, and (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. Such materials may be disposed of only in accordance with the provisions of this Act and upon the payment of adequate compensation therefor, to be determined by the Secretary: *Provided, however*, That, to the extent not otherwise authorized by law, the Secretary is authorized in his discretion to permit any Federal, State, or Territorial agency, unit or subdivision, including municipalities, or any person, or any association or corporation not organized for profit, to take and remove, without charge, materials and resources subject to this Act, for use other than for commercial or industrial purposes or resale. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the department headed by the Secretary or of a State, Territory, county, municipality, water district, or other local governmental subdivision or agency, the Secretary may make disposals under this Act only with the consent of such other Federal department or agency or of such State, Territory, or local governmental unit. Nothing in this Act shall be construed to apply to lands in any national park, or national monument or to any Indian lands, or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians. As used in this Act, the word 'Secretary' means the Secretary of the Interior except that it means the Secretary of Agriculture where the lands involved are administered by him for national forest purposes or for the purposes of title III of the Bankhead-Jones Farm Tenant Act or where withdrawn for the purpose of any other function of the Department of Agriculture."

SEC. 2. That section 3 of the Act of July 31, 1947 (61 Stat. 681), as amended by the Act of August 31, 1950 (64 Stat. 571), is amended to read as follows:

"All moneys received from the disposal of materials under this Act shall be disposed of in the same manner as moneys received from the sale of public lands, except that moneys received from the disposal of materials by the Secretary of Agriculture shall be disposed of in the same manner as other moneys received by the Department of Agriculture from the administration of the lands from which the disposal of materials is made, and except that moneys received from the disposal of materials from school section lands in Alaska, reserved under section 1 of the Act of March 4, 1915 (38 Stat. 1214), shall be set apart as separate and permanent funds in the Territorial Treasury, as provided for income derived from said school section lands pursuant to said Act."

SEC. 3. A deposit of common varieties of sand, stone, gravel, pumice, pumicite, or cinders shall not be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so as to give effective validity to any mining claim hereafter located under such mining laws: *Provided, however*, That nothing herein shall affect the validity of any mining location based upon discovery of some other mineral occurring in or in association with such a deposit. "Common varieties" as used in this Act does not include deposits of such materials which are valuable because the deposit has some property giving it distinct and special value and does not include so-called "block pumice" which occurs in nature in pieces having one dimension of two inches or more.

SEC. 4. (a) Any mining claim hereafter located under the mining laws of the United States shall not be used, prior to issuance of patent therefor, for any purposes other than prospecting, mining or processing operations and uses reasonably incident thereto.

(b) Rights under any mining claim hereafter located under the mining laws of the United States shall be subject, prior to issuance of patent therefor, to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof (except mineral deposits subject to location under the mining laws of the United States). Any such mining claim shall also be subject, prior to issuance of patent therefor, to the right of the United States, its permittees and licensees, to use so much of the surface thereof as may be necessary for such purposes or for access to adjacent land: *Provided, however*, That any use of the surface of any such mining claim by the United States, its permittees or licensees, shall be such as not to endanger or materially interfere with prospecting, mining or processing operations or uses reasonably incident thereto.

(c) Except to the extent required for the mining claimant's prospecting, mining or processing operations and uses reasonably incident thereto, or for the construction of buildings or structures in connection therewith, or to provide clearance for such operations or uses, or to the extent authorized by the United States, no claimant of any mining claim hereafter located under the mining laws of the United States shall, prior to issuance of patent therefor, sever, remove, or use any vegetative or other surface resources thereof which are subject to management or disposition by the United States under the preceding subsection (b). Any severance or removal of timber which is permitted under the exceptions of the preceding sentence, other than severance or removal to provide clearance, shall be in accordance with sound principles of forest management.

SEC. 5. (a) The Secretary of the Federal Department which has the responsibility for administering surface resources of any lands belonging to the United States may file as to such lands in the office of the Secretary of the Interior, or in such office as the Secretary of the Interior may designate, a request for publication of notice to mining claimants, for determination of surface rights, which request shall contain a description of the lands covered thereby, showing the section or sections of the public land surveys which embrace the lands covered by such request, or if such lands are unsurveyed, either the section or sections which would probably embrace such lands when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument.

The filing of such request for publication shall be accompanied by an affidavit or affidavits of a person or persons over twenty-one years of age setting forth that the affiant or affiants have examined the lands involved in a reasonable effort to ascertain whether any person or persons were in actual possession of or engaged in the working of such lands or any part thereof, and, if no person or persons were found to be in actual possession of or engaged in the working of said lands or any part thereof on the date of such examination, setting forth such fact, or, if any person or persons were so found to be in actual possession or engaged in such working on the date of such examination, setting forth the name and address of each such person, unless affiant shall have been unable through reasonable inquiry to obtain information as to the name and address of any such person, in which event the affidavit shall set forth fully the nature and results of such inquiry.

The filing of such request for publication shall also be accompanied by the certificate of a title or abstract company, or of a title abstractor, or of an attorney, based upon such company's, abstractor's, or attorney's examination of those instruments which are shown by the tract indexes in the county office of record as affecting the lands described in said request, setting forth the name of any person disclosed by said instruments to have an interest in said lands under any unpatented mining claim heretofore located, together with the address of such person if such address is disclosed by such instruments of record. "Tract indexes" as used herein shall mean those indexes, if any, as to surveyed lands identifying instruments as affecting a particular legal subdivision of the public land surveys, and as to unsurveyed lands identifying instruments as affecting a particular probable legal subdivision according to a projected extension of the public land surveys.

Thereupon the Secretary of the Interior, at the expense of the requesting department or agency, shall cause notice to mining claimants to be published in a newspaper having general circulation in the county in which the lands involved are situate.

Such notice shall describe the lands covered by such request, as provided heretofore, and shall notify whomever it may concern that if any person claiming or

asserting under, or by virtue of, any unpatented mining claim heretofore located, rights as to such lands or any part thereof, shall fail to file in the office where such request for publication was filed (which office shall be specified in such notice) and within one hundred and fifty days from the date of the first publication of such notice (which date shall be specified in such notice), a verified statement which shall set forth, as to such unpatented mining claim—

- (1) the date of location;
- (2) the book and page of recordation of the notice or certificate of location;
- (3) the section or sections of the public land surveys which embrace such mining claim; or if such lands are unsurveyed, either the section or sections which would probably embrace such mining claim when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument;
- (4) whether such claimant is a locator or purchaser under such location; and
- (5) the name and address of such claimant and names and addresses so far as known to the claimant of any other person or persons claiming any interest or interests in or under such unpatented mining claim;

such failure shall be conclusively deemed (i) to constitute a waiver and relinquishment by such mining claimant of any right, title, or interest under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, and (ii) to constitute a consent by such mining claimant that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, and (iii) to preclude thereafter, prior to issuance of patent, any assertion by such mining claimant of any right or title to or interest in or under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims.

If such notice is published in a daily paper, it shall be published in the Wednesday issue for nine consecutive weeks, or, if in a weekly paper, in nine consecutive issues, or if in a semiweekly or triweekly paper, in the issue of the same day of each week for nine consecutive weeks.

Within fifteen days after the date of first publication of such notice, the department or agency requesting such publication (1) shall cause a copy of such notice to be personally delivered to or to be mailed by registered mail addressed to each person in possession or engaged in the working of the land whose name and address is shown by an affidavit filed as aforesaid, and to each person who may have filed, as to any lands described in said notice, a request for notices, as provided in subsection (d) of this section 5, and shall cause a copy of such notice to be mailed by registered mail to each person whose name and address is set forth in the title or abstract company's or title abstractor's or attorney's certificate filed as aforesaid, as having an interest in the lands described in said notice under any unpatented mining claim heretofore located, such notice to be directed to such person's address as set forth in such certificate; and (2) shall file in the office where said request for publication was filed an affidavit showing that copies have been so delivered or mailed.

(b) If any claimant under any unpatented mining claim heretofore located which embraces any of the lands described in any notice published in accordance with the provisions of subsection (a) of this section 5, shall fail to file a verified statement, as above provided, within one hundred and fifty days from the date of the first publication of such notice, such failure shall be conclusively deemed, except as otherwise provided in subsection (e) of this section 5, (i) to constitute a waiver and relinquishment by such mining claimant of any right, title, or interest under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, and (ii) to constitute a consent by such mining claimant that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, and (iii) to preclude thereafter, prior to issuance of patent, any assertion by such mining claimant of any right or title to or interest in or under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims.

(c) If any verified statement shall be filed by a mining claimant as provided in subsection (a) of this section 5, then the Secretary of the Interior shall fix

a time and place for a hearing to determine the validity and effectiveness of any right or title to, or interest in or under such mining claim, which the mining claimant may assert contrary to or in conflict with the limitations and restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, which place of hearing shall be in the county where the lands in question or parts thereof are located, unless the mining claimant agrees otherwise. Where verified statements are filed asserting rights to an aggregate of more than twenty mining claims, any single hearing shall be limited to a maximum of twenty mining claims unless the parties affected shall otherwise stipulate and as many separate hearings shall be set as shall be necessary to comply with this provision. The procedures with respect to notice of such a hearing and the conduct thereof, and in respect to appeals shall follow the then established general procedures and rules of practice of the Department of the Interior in respect to contests or protests affecting public lands of the United States. If, pursuant to such a hearing the final decision rendered in the matter shall affirm the validity and effectiveness of any mining claimant's so asserted right or interest under the mining claim, then no subsequent proceedings under this section 5 of this Act shall have any force or effect upon the so-affirmed right or interest of such mining claimant under such mining claim. If at any time prior to a hearing the department or agency requesting publication of notice and any person filing a verified statement pursuant to such notice shall so stipulate, then to the extent so stipulated, but only to such extent, no hearing shall be held with respect to rights asserted under that verified statement, and to the extent defined by the stipulation the rights asserted under that verified statement shall be deemed to be unaffected by that particular published notice.

(d) Any person claiming any right under or by virtue of any unpatented mining claim heretofore located and desiring to receive a copy of any notice to mining claimants which may be published as above provided in subsection (a) of this section 5, and which may affect lands embraced in such mining claim, may cause to be filed for record in the county office of record where the notice or certificate of location of such mining claim shall have been recorded, a duly acknowledged request for a copy of any such notice. Such request for copies shall set forth the name and address of the person requesting copies and shall also set forth, as to each heretofore located unpatented mining claim under which such person asserts rights—

(1) the date of location;

(2) the book and page of the recordation of the notice or certificate of location; and

(3) the section or sections of the public land surveys which embrace such mining claim; or if such lands are unsurveyed, either the section or sections which would probably embrace such mining claim when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument.

Other than in respect to the requirements of subsection (a) of this section 5 as to personal delivery or mailing of copies of notices and in respect to the provisions of subsection (e) of this section 5, no such request for copies of published notices and no statement or allegation in such request and no recordation thereof shall affect title to any mining claim or to any land or be deemed to constitute constructive notice to any person that the person requesting copies has, or claims, any right, title, or interest in or under any mining claim referred to in such request.

(e) If any department or agency requesting publication shall fail to comply with the requirements of subsection (a) of this section 5 as to the personal delivery or mailing of a copy of notice to any person, the publication of such notice shall be deemed wholly ineffectual as to that person or as to the rights asserted by that person and the failure of that person to file a verified statement, as provided in such notice, shall in no manner affect, diminish, prejudice or bar any rights of that person.

SEC. 6. The owner or owners of any unpatented mining claim heretofore located may waive and relinquish all rights thereunder which are contrary to or in conflict with the limitations or restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims. The execution and acknowledgment of such a waiver and relinquishment by such owner or owners and the recordation thereof in the office where the notice or certificate of location of such mining claim is of record shall render such mining claim thereafter and prior to issuance of patent subject to the limitations and restrictions in section 4 of this

Act in all respects as if said mining claim had been located after enactment of this Act, but no such waiver or relinquishment shall be deemed in any manner to constitute any concession as to the date of priority of rights under said mining claim or as to the validity thereof.

SEC. 7. Nothing in this Act shall be construed in any manner to limit or restrict or to authorize the limitation or restriction of any existing rights of any claimant under any valid mining claim heretofore located, except as such rights may be limited or restricted as a result of a proceeding pursuant to section 5 of this Act, or as a result of a waiver and relinquishment pursuant to section 6 of this Act; and nothing in this Act shall be construed in any manner to authorize inclusion in any patent hereafter issued under the mining laws of the United States for any mining claim heretofore or hereafter located, of any limitation or restriction not otherwise authorized by law.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., May 17, 1955.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington 25, D. C.

MY DEAR SENATOR MURRAY: This is in reply to your request for the views of this Department on S. 1713, a bill to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for the multiple use of the surface of the same tracts of the public lands and for other purposes.

We recommend that S. 1713 be enacted, and suggest that it be amended as indicated hereinafter.

S. 1713, if enacted, would make a number of significant changes in existing laws governing mining and the disposal of materials on the public lands particularly insofar as surface uses and rights are concerned. Briefly summarized, the bill may be said to provide as follows: (1) The first three sections would exclude certain minerals from among those on which claims under the mining laws may be based, and would provide a means for the disposal of the materials so excluded; (2) section 4 would limit the rights of a holder of an unpatented mining claim hereafter located to the use of the surface and surface resources; and (3) sections 5 and 6 would provide a procedure for the clarification of surface rights appurtenant to mining claims existing at the time of the bill's enactment. Existing rights would be protected by section 7.

Section 1 of the bill would amend section 1 of the act of July 31, 1947 (61 Stat. 681; 43 U. S. C., sec. 1185), to add certain common minerals to the materials subject to disposition under that act. Also, the Secretary of Agriculture would be given the same authority with respect to mineral materials, including, but not limited to, sand, stone, gravel, pumice, pumicite, cinders, and clay, and vegetative materials, including, but not limited to, yucca, manzanita, mesquite, cactus, and timber or other forest products, located on lands under his jurisdiction as that which the Secretary of the Interior has with respect to lands under his jurisdiction. The provisions of that section would remain inapplicable to national parks and monuments and to Indian lands, but would in future be applicable to national forests.

Section 2 would amend section 3 of that act, as amended (43 U. S. C., sec. 1187), to provide that moneys received from the disposal of materials thereunder would be subject to disposition under the same provisions as moneys received from the sale of public lands, except that moneys received from the disposal of materials by the Secretary of Agriculture would be disposed of in the same manner as are other receipts from the lands from which the materials are removed. Moneys received from the disposal of materials from school section lands in Alaska would be treated as income from such school section lands is ordinarily treated.

Section 3 specifically states that a deposit of common varieties of sand, stone, gravel, pumice (except block pumice), pumicite, or cinders shall not be deemed a valuable mineral deposit within the meaning of the mining laws so as to give effective validity to any claim located thereunder.

Section 4 provides that, prior to the issuance of patent, no mining claim located subsequent to the enactment of S. 1713 could be used for any purpose other than prospecting, mining, or processing operations, and uses reasonably incident thereto, and all rights under the claim would be subject to the right of the United States to manage and use the surface; moreover, prior to the issuance of patent, no claimant could sever, remove, or use vegetative or other surface resources, except to the extent required by mining operations or uses reasonably incident thereto.

At the present time, agencies administering federally owned lands encounter many difficulties in administering the lands under their jurisdiction because of the presence of unpatented mining claims of the existence of which they may not even be aware. This undesirable situation would be alleviated by the procedure which section 5 of S. 1713 would provide for determining expeditiously title uncertainties resulting from the existence of abandoned, invalid, dormant, or unidentifiable mining claims, located prior to the enactment of the bill. Not only is it necessary that some means be established for the expeditious determination of these uncertainties resulting from the existence of such claims, but, if section 4 of this bill is to have the desired effect upon the management and use of surface resources of unpatented mining claims, a procedure to identify which unpatented claims will be subject to its provisions is necessary. In our opinion, the procedure to be established by section 5 would answer this need for it would permit a determination of those valid claims existing prior to the enactment of the bill with respect to which claimants are asserting surface rights adverse to the United States. We do not interpret the provisions of section 5 as impairing authority under existing law to declare mining claims null and void for failure to comply with provisions of law governing such claims. We have also assumed that nothing in the bill would prevent the taking by the United States of any mining claims under the right of eminent domain.

The procedure which section 5 would establish would commence with the Secretary of any Federal department, responsible for administering the surface resources of any lands belonging to the United States, filing with the Secretary of the Interior a request for publication of notice to mining claimants for the determination of surface rights. The filing of a request of that nature would be accompanied by affidavits of persons who had examined the lands involved in an effort to ascertain whether or not any persons were in possession of or engaged in working the lands; the affidavits would state the names and addresses of all persons so found or, if none were found, would state that fact.

The request would also be accompanied by the certificate of an attorney, a title abstractor, or a title or abstract company, based upon an examination of tract indexes in the county office of record, setting forth the name of any person appearing in those records as having an interest in the lands involved under an unpatented mining claim. The Secretary of the Interior would, upon the receipt of such a request, publish notice to mining claimants in a newspaper having general circulation in the county wherein the lands involved are situated. Any person asserting an unpatented mining claim in those lands would be required to submit, within 150 days, a statement setting forth pertinent information as to his claim, and any claimant failing to submit such a statement would be conclusively deemed to have waived any rights to his claim which would be contrary to the limitations set forth in section 4 of the bill with respect to the use of the surface and to have consented to the subjection of his claim to the provisions of that section. Upon publication of notice in a newspaper, a copy of that notice would be delivered, either in person or by registered mail, to each person whose name and address appear in the affidavits and certificates submitted with the request for publication.

The bill also would provide a method by which any person desirous of receiving notice with respect to any particular lands might file a request for such notice in the appropriate county office of record. If any statement should be filed by a claimant in response to the publication or delivery of notice, the Secretary of the Interior would hold hearings to determine the validity and effectiveness of any right or title to that mining claim, or interest in or under that claim, which is contrary to or in conflict with the provisions relating to the use and management of surface resources, set forth in section 4 of the bill. Such hearings would follow the established general procedures and rules of practice of the Department of the Interior with respect to contests or protests affecting public lands. If, with respect to any person, the requirements as to personal delivery or mailing of notice should not be complied with, that person's rights would be affected in no way by the publication of notice.

Section 6 provides that, while any owner of an unpatented mining claim may waive or relinquish all rights thereunder contrary to or in conflict with the restrictions of section 4, such a waiver or relinquishment will not constitute any concession as to the validity of his claim or as to the date of priority of rights under that claim.

Section 7 provides that the bill will in no way limit or restrict existing rights under any valid mining claim except insofar as those rights are limited or restricted in actions taken pursuant to sections 5 and 6, nor will the bill authorize

the inclusion in patents thereafter issued for mining claims of any limitations or restrictions not otherwise authorized by law.

S. 1713 is designed to meet a situation which has arisen because of more intensive Federal use of the public lands in recent years. Under the existing mining laws various abuses have been possible. For example, it has been possible for persons who have unpatented claims under the mining laws to prevent orderly management and disposition of valuable timber and other surface resources, and also to block access to such resources on unlocated Federal land while paying little or no attention to mining. Moreover, many claims have been based on deposits of the mineral material listed in section 1 which, although technically of sufficient value to justify a location, are actually of minor worth as compared to other natural resources of the land. Another example of these abuses may be seen in the fact that it has been possible to acquire a color of right, through a mining location, for nonmining purposes, such as summer homesites.

This bill is designed to strike at these abuses, which violate the spirit of the mining laws. The bill provides that deposits of common minerals such as ordinary varieties of sand, stone, gravel, pumice, pumicite, and cinders shall not be deemed valuable mineral deposits within the meaning of the mining laws. Secondly, it prohibits the use of a claim for any nonmining purpose prior to the issuance of patent.

The type of practice against which this bill is directed has drawn the disapproval of the mining industry generally, conservation groups, and other public land users. The national interest in encouraging the discovery of minerals dictates that the mining industry should have a continued opportunity to locate mining claims, to mine minerals found there, to discover and develop commercial deposits, and, if fortunate, to make a profit, but the national interest is not served by preventing the use of the surface of unpatented claims for other desirable uses which do not substantially interfere with mining operations and related activities. This legislation is based upon this sound premise, in our view.

At the same time as the proposed legislation would meet the wishes of the mining industry, it would also give full recognition to the vital importance of the forest and range resources of the public lands and the national forests, for the bill provides for the multiple use of the surface of mining claims and thus permits the conservation and wise use of all surface resources in the public interest.

We have discussed above the need for a procedure for establishing the existence of unpatented mining claims and for determining the respective rights of the United States and holders of unpatented mining claims. Certainly, the procedure which section 5 would establish would eliminate many of the problems relating to ownership and management of surface resources which arise in the case of Government timber sales, grazing permits, and watershed and recreational development. Under the procedure which would be provided by this bill, it is hoped that an area in which a timber sale, for example, was contemplated could be subjected to a conclusive determination of surface rights within a reasonably short time.

We believe that the bill should be amended so that the provisions of sections 1 and 2 would be specifically applicable to the revested Oregon & California Railroad grant lands and the reconveyed Coos Bay Wagon Road grant lands. The other sections of S. 1713 are already applicable to these lands, and there is no reason why these lands should not be subject to the same provisions of law as other public lands in these respects. We suggest, therefore, that there be inserted immediately after "United States," at page 2, line 2, the following: "including for the purposes of this act land described in the acts of August 28, 1937 (50 Stat. 874), and of June 24, 1954 (68 Stat. 270).". For the same reason, we also suggest that there be inserted, immediately after "except" at page 3, line 22, the following: "that revenues from the lands described in the act of August 28, 1937 (50 Stat. 874), and the act of June 24, 1954 (68 Stat. 270), shall be disposed of in accordance with said acts and except."

It is also suggested that the language used at the beginning of section 5 requires clarification. Though the later language of section 5 clearly indicates that its provisions apply to all departments and agencies, the phraseology in the first sentence of the section could well be interpreted as limiting the section's scope to the executive departments only. We suggest, therefore, that all of line 3, page 6, be deleted and the following substituted in its place "The head of a Federal department or agency."

Certain existing statutes limit or restrict mining activities upon lands owned by the United States, as, for example, the act of April 8, 1948 (62 Stat. 162),

which opened the revested Oregon & California Railroad grant lands and the reconveyed Coos Bay Wagon Road grant lands to exploration, location, entry, and disposition under the general mining laws, but which limited, with respect to the timber on those lands, the rights of persons making entry on those lands. We believe it essential that nothing in S. 1713 be interpreted as repealing or amending any of those laws imposing such special limitations or restrictions. Though the existing language of the bill may afford such a guarantee, we suggest that the period at the end of section 7 be replaced by a comma and the following added: "or to limit or repeal any existing authority to include any limitation or restriction in any such patent."

The Bureau of the Budget has advised that there is no objection to the presentation of this report to your committee.

Sincerely yours,

FRED G. AANDAHL,
Assistant Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
Washington 25, D. C., May 17, 1955.

HON. JAMES E. MURRAY,

Chairman, Committee on Interior and Insular Affairs,
United States Senate.

DEAR SENATOR MURRAY: Reference is made to your request of April 20 for a report on S. 1713, a bill to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands and for other purposes.

We strongly recommend early enactment of S. 1713 with one clarifying amendment as subsequently described.

S. 1713 is identical to H. R. 5561, 5563, 5572, 5595, 5742, and almost identical to H. R. 5577.

This bill would apply to all lands of the United States subject to the general mining laws. Its major provisions are:

(1) Common varieties of sand, stone, gravel, pumice, pumicite, and cinders would be removed from the the purview of the United States mining laws and made subject to disposal only under the provisions of the Materials Act of July 31, 1947 (61 Stat. 681), by the Secretary of Agriculture for lands under his jurisdiction and by the Secretary of the Interior for other public lands of the United States.

(2) Mining claims located after enactment of the bill could not, prior to patent, be used for other than mining purposes without authorization from the United States, and such locations would be subject to the right of the United States to manage and dispose of the vegetative surface resources, to manage other surface resources thereof (except minerals subject to the mining laws) and to use so much of the surface as necessary for such purposes or for access to adjacent land; provided that any use of the surface by the United States, its permittees or licensees, could not endanger or materially interfere with mining uses. Mining claimants could not use surface resources subject to management and disposal by the United States except to the extent required for mining purposes, and any timber cut for such purposes, except for clearance, must be in accordance with sound principles of forest management.

(3) Under a procedure similar to that provided in Public Law 585 of the 83d Congress, the Secretary of the Interior shall, at the request of the Federal department having the responsibility for administering the surface of lands of the United States, initiate action for a determination of surface rights as to a given area. Under this procedure, a holder of a claim located prior to enactment of this bill could assert and establish his rights in the lands covered by his claim, and such claim would be unaffected by the proceedings. If such a claimant fails to establish his rights, or fails to assert his rights, or if he voluntarily waives his rights to the surface, he will be in the same position as a holder of a claim located after enactment of this bill. The procedure does not affect the right of a claimant to apply for patent, and if patent is granted he would acquire the same title as he would under the existing law.

We believe S. 1713, if enacted, would go far toward correcting some of the very difficult problems confronting this department in its administration of those national forests and Title III Bankhead-Jones lands subject to the general mining laws of the United States. We also believe that for the first time an area of agreement has been reached on this problem between the administrators of pub-

lic lands under the jurisdiction of both the Departments of Interior and Agriculture, representatives of the mining industry, and conservation groups.

The Department of Agriculture desires to encourage legitimate prospecting and effective utilization and development of mineral resources of the national forests and Title III lands. We would not favor legislation which would interfere with such development of minerals nor work hardship on the bona fide prospector or miner. We also recognize that the mining industry does not condone the use of mining claims on the public lands for other than mining purposes.

However, on the national forests the mining laws are sometimes used to obtain claim or title to valuable timber, summer home sites, or lands blocking access to Government timber and to water needed in the grazing use of the national forests.

As of January 1, 1952, there were 36,600 mining patents on the national forests, covering 918,500 acres. Only about 15 percent of these mining patents have been or are commercially successful mines. As of the same date, there were approximately 84,000 claims, covering 2.2 million acres. Only 2 percent of these claims were producing minerals in commercial quantities and probably not more than 40 percent could be considered valid under the requirements of the mining laws. Yet, on these national-forest claims, there was tied up over 8 billion feet of commercial sawtimber, valued at about \$100 million which the Government could not sell without consent of the claimant. In other words, national-forest timber exceeding in quantity and value that cut from all national forests in any one year is tied up on mining claims and cannot be sold by the Government. The two tables attached to this report supply these basic statistics by States.

The effect of this situation is increased costs of administration, obstruction of orderly management and competitive sale of timber, and obtaining high-value, publicly owned surface resources by a few individuals at nominal cost.

In the last 3 years there has been a tremendous increase in the number of mining claims on the national forests, principally as the result of prospecting for uranium and other fissionable materials. For example, as of January 1, 1955, it is estimated that there were 166,000 claims on the national forests, covering nearly 4 million acres or about a 100-percent increase in the past 3 years. At the rate claims are currently being filed, we estimate that by the end of this calendar year there will be about 225,000 mining claims on the national forests. It is also estimated conservatively that there are now over 10 billion board feet of timber tied up on national-forest mining claims, having a current stumpage value of \$112 million.

Following is an estimate of the number of claims and included acreage by States in the national forests as of January 1, 1955:

State	Thousand claims	1955 claims as multiple of 1952 claims	Thousand acres	1955 acreage as multiple of 1952 acreage
Arizona.....	34.3	6.9	684	6.2
California.....	21.0	1.1	602	1.0
Colorado.....	16.7	1.8	375	1.5
Idaho.....	18.4	1.2	408	1.2
Montana.....	14.6	2.1	282	2.1
Nevada.....	5.2	1.8	108	2.3
New Mexico.....	8.7	3.7	223	2.8
Oregon.....	6.7	.9	215	.8
South Dakota.....	4.8	1.9	103	2.0
Utah.....	28.4	3.6	583	3.2
Washington.....	5.3	1.8	94	1.3
Wyoming.....	2.1	2.5	78	2.4
Totals.....	166.2	2.0	3,755	1.7

The number of claims is "snowballing" so fast that the situation on the national forests is rapidly getting out of hand. The above summary, for example, shows that there are nearly 7 times as many mining claims in Arizona as 3 years ago, and nearly 4 times as many in New Mexico and Utah. The increase has been large in other States, too. Equitable corrective action as would be provided by S. 1713 is urgently needed. It is needed quickly because new claims are being filed at the rate of about 5,000 per month.

We suggest the following be added after the word "except" in line 22, page 3: "that revenues from the lands described in the act of August 28, 1937 (50 Stat. 874), and the act of June 24, 1954 (68 Stat. 270), shall be disposed of in accordance with the provisions of such acts, and except."

The purpose of this amendment is to make it clear that revenues from O. & C. lands under the administration of the Department of the Interior and lands administered by the Department of Agriculture under the 1954 act will be placed in the O. & C. fund.

To effectively implement the provisions of S. 1713, particularly those of section 5, it is estimated that about \$750,000 to \$1 million would be needed annually by this Department for roughly a 10-year period, after which costs would drop to a relatively small amount. After claims located prior to enactment of the bill had been processed in accord with section 5, costs relating to this bill would be limited primarily to costs of issuing permits for disposal of materials under the Materials Act. Such costs would be offset in whole or in part by revenues from such permits.

In summary, this Department recommends enactment of S. 1713 since it will do much to solve the serious problems presented by mining claims in the management of public lands and resources. It will correct deficiencies in the mining laws and prevent many of the abuses by other than bona fide miners, but it will not obstruct or interfere with bona fide mineral prospecting, mining, and development. The Department is anxious to see these measures taken and strongly endorses the bill. However, S. 1713 does not include all of the changes in the mining laws which would be desirable from a good public land management standpoint and some problems would remain with respect to mining on the national forests and title III lands that this bill would not correct.

The Bureau of the Budget advises that, from the standpoint of the program of the President, there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE, *Undersecretary*.

Estimated number of unpatented mining claims on the national forests (as of Jan. 1, 1952)

State	Number of claims	Acres	Estimated percent which are producing minerals in commercial quantities	Estimated percent considered valid under the mining laws	Timber on claims	
					Volume (thousand feet, board measure)	1951 value
Arizona.....	5,000	95,400	9.0	22	70,000	\$700,000
California.....	19,640	582,700	.8	30	3,460,000	50,177,000
Colorado.....	9,450	256,000	1.0	37	80,000	368,000
Idaho.....	15,840	355,100	4.3	42	1,170,000	8,425,000
Montana.....	6,860	132,600	1.7	46	85,000	440,000
Nevada.....	2,940	50,700	2.0	60	-----	-----
New Mexico.....	2,350	81,700	3.0	24	225,000	2,000,000
Oregon.....	7,780	267,300	1.8	55	2,301,000	36,307,000
South Dakota.....	2,600	52,500	4.5	30	81,000	542,000
Utah.....	7,810	185,300	2.0	50	7,000	40,000
Washington.....	2,920	71,700	2.2	52	751,000	4,111,000
Wyoming.....	860	32,900	.6	55	36,000	417,000
Total.....	84,050	2,163,900	2.0	40	8,266,000	103,527,000

Patented mining claims on the national forests (as of Jan. 1, 1952)

State	Number of claims	Acre-age	Estimated percent which are or have ever been commercial mining operations	State	Number of claims	Acre-age	Estimated percent which are or have ever been commercial mining operations
Arizona.....	1,110	53,370	5	Oregon.....	1,370	26,634	22
California.....	3,068	134,807	14½	South Dakota.....	1,000	74,000	7
Colorado.....	17,000	300,000	12	Utah.....	1,359	57,210	10
Idaho.....	3,203	80,802	28	Washington.....	1,184	20,738	8
Montana.....	5,124	116,575	17½	Wyoming.....	761	17,687	1½
Nevada.....	675	12,205	50				
New Mexico.....	706	24,498	16	Total.....	36,560	918,526	14¾

[H. R. 100, 84th Cong., 1st sess.]

AN ACT To permit the mining, development, and utilization of the mineral resources of all public lands withdrawn or reserved for power development, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mining Claims Rights Restoration Act of 1955."

SEC. 2. All public lands belonging to the United States now or hereafter withdrawn or reserved for power development or power sites by statutory rights shall be open to entry for location and patent of mining claims and for mining, development, beneficiation, removal, and utilization of the mineral resources of such lands under applicable Federal statutes: *Provided*, That all power rights to such lands shall be retained by the United States: *Provided further*, That locations made under this Act within the revested Oregon and California Railroad and reconveyed Coos Bay Wagon grant lands shall also be subject to the provisions of the Act of April 8, 1948, Public Law 477 (Eightieth Congress, second session): *And provided further*, That nothing contained herein shall be construed to open for the purposes described in this section any lands (1) which are included in any project operating or being constructed under a license or permit issued under the Federal Power Act or other Act of Congress, or (2) which are under examination and survey by a prospective licensee of the Federal Power Commission, if such prospective licensee holds an uncanceled preliminary permit issued under the Federal Power Act authorizing him to conduct such examination and survey with respect to such lands and such permit has not been renewed in the case of such prospective licensee more than once.

SEC. 3. Prospecting and exploration for and the development and utilization of mineral resources authorized in this Act shall be entered into or continued at the financial risk of the individual party or parties undertaking such work: *Provided*, That the United States, its permittees and licensees shall not be responsible or held liable or incur any liability for the damage, destruction, or loss of any mining claim, mill site, facility installed or erected, income, or other property or investments resulting from the actual use of such lands or portions thereof for power development at any time where such power development is made by or under the authority of the United States, except where such damage, destruction, or loss results from the negligence of the United States, its permittees and licensees.

SEC. 4. The owner of any unpatented mining claim located on land described in section 2 of this Act shall file for record in the United States district land office of the land district in which the claim is situated (1) within one year after the effective date of this Act, as to any or all locations heretofore made, or within sixty days of location as to locations hereafter made, a copy of the notice of location of the claim; (2) within sixty days after the expiration of any annual assessment year, a statement as to the assessment work done or improvements made during the previous assessment year.

SEC. 5. Nothing in this Act contained shall be construed to limit or restrict the rights of the owner or owners of any valid mining claim located prior to the date of withdrawal or reservation.

SEC. 6. Notwithstanding any other provisions of this Act, all mining claims and mill sites or mineral rights located under the terms of this Act or otherwise contained on the public lands as described in section 2 shall be used only for the purposes specified in section 2 and no facility or activity shall be erected or conducted thereon for other purposes.

SEC. 7. No mining claim located pursuant to this Act upon surveyed or unsurveyed lands, title to which, except for such location, would following the termination of the withdrawal or reservation, vest in a State for the support of the common or public schools shall create any rights as against the State, and the existence of the claim shall not prevent the vesting of the title in the State.

[S. 1149, 84th Cong., 1st sess.]

A BILL To permit the mining, development, and utilization of the mineral resources of all public lands withdrawn or reserved for power development, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mining Claims Rights Restoration Act of 1955".

SEC. 2. All public lands belonging to the United States now or hereafter withdrawn or reserved for power development or power sites by statutory rights shall be open to entry for location and patent of mining claims and for mining, development, beneficiation, removal, and utilization of the mineral resources of such lands under applicable Federal statutes: *Provided*, That all power rights to such lands shall be retained by the United States: *Provided further*, That locations made under this Act within the revested Oregon and California Railroad and reconveyed Coos Bay Wagon grant lands shall also be subject to the provisions of the Act of April 8, 1948, Public Law 477 (Eightieth Congress, second session.)

SEC. 3. Prospecting and exploration for and the development and utilization of mineral resources authorized in this Act shall be entered into or continued at the financial risk of the individual party or parties undertaking such work: *Provided*, That the United States, its permittees and licensees shall not be responsible or held liable or incur any liability for the damage, destruction, or loss of any mining claim, mill site, facility installed or erected, income, or other property or investments resulting from the actual use of such lands or portions thereof for power development at any time where such power development is made by or under the authority of the United States, except where such damage, destruction, or loss results from the negligence of the United States, its permittees and licensees.

SEC. 4. The owner of any unpatented mining claim located on land described in section 2 of this Act shall file for record in the United States district land office of the land district in which the claim is situated (1) within one year after the effective date of this Act, as to any or all locations heretofore made, or within sixty days of location as to locations hereafter made, a copy of the notice of location of the claim: (2) within sixty days after the expiration of any annual assessment year, a statement as to the assessment work done or improvements made during the previous assessment year.

SEC. 5. Nothing in this Act contained shall be construed to limit or restrict the rights of the owner or owners of any valid mining claim located prior to the date of withdrawal or reservation.

SEC. 6. Notwithstanding any other provisions of this Act, all mining claims and mill sites or mineral rights located under the terms of this Act or otherwise contained on the public lands as described in section 2 shall be used only for the purposes specified in section 2 and no facility or activity shall be erected or conducted thereon for other purposes.

[S. 1502, 84th Cong., 1st sess.]

A BILL To permit the mining, development, and utilization of the mineral resources of all public lands withdrawn or reserved for power development, to require public hearings prior to withdrawals of all public lands, to limit temporary withdrawals to five years, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all public lands belonging to the United States heretofore, now, or hereafter withdrawn or reserved for power development or power sites by statutory rights shall be open to entry for location and patent of mining claims and for mining, development, beneficiation, removal, and utilization of the mineral resources of such lands under applicable Federal statutes: *Provided*, That all power rights to such lands shall be retained by the United States.

SEC. 2. Prospecting and exploration for and the development and utilization of mineral resources authorized in this Act shall be entered into or continued at the financial risk of the individual party or parties undertaking such work: *Provided*, That the United States, its permittees, and licensees shall not be responsible or held liable or incur any liability for the damage, destruction, or loss of any mining claim, mill site, facility installed or erected, income, or other property or investments resulting from the actual use of such lands or portions thereof for power development at any time where such power development is made by or under the authority of the United States, except where such damage, destruction, or loss results from the negligence of the United States, its permittees, and licensees.

SEC. 3. The owner of any unpatented mining claim located on land described in section 1 of this Act shall file for record in the United States district land office of the land district in which the claim is situated (1) within one year after the effective date of this Act, as to any or all locations heretofore made, or within

sixty days of location as to locations hereafter made, a copy of the notice of location of the claim, or (2) within sixty days after the expiration of any annual assessment year, a statement as to the assessment work done or improvements made during the previous assessment year.

SEC. 4. (a) Nothing in this Act contained shall be construed to limit or restrict the rights of the owner or owners of any valid mining claim located prior to the date of withdrawal or reservation.

(b) Nothing in this Act shall affect the validity of withdrawals or reservations for purposes other than power development: *Provided*, That any withdrawal or reservation for purposes other than power development made after the original location of a mining claim affecting land covered by such mining claim is hereby modified and amended so that the effect thereof upon such mining claim shall be the same as if such mining claim had been located upon lands of the United States which, prior to the date of such withdrawal, were subject to location under the mining laws of the United States: *Provided further*, That the owner of such claim shall duly comply with the filing provisions of section 3 of this Act.

SEC. 5. Notwithstanding any other provisions of this Act, all mining claims and mill sites or mineral rights located under the terms of this Act or otherwise contained on the public lands as described in section 1 shall be used only for the purposes specified in section 1 and no facility or activity shall be erected or conducted thereon for other purposes.

SEC. 6. (a) No public lands of the United States, including Alaska, shall hereafter be withdrawn from settlement, entry, location, or sale, except after full public hearings, held within the State or States in which the lands proposed to be withdrawn are situated, upon adequate notice and opportunity for hearing by all interested parties. The publication of notice of any such hearings shall have the effect of segregating for a period of one hundred and eighty days the lands proposed to be withdrawn from settlement, entry, location, sale, or other forms of disposal under the public land laws, including the mining and mineral leasing laws, to the extent that the withdrawal applied for, if effected, would prevent such forms of disposal.

(b) Any lands which are hereafter temporarily withdrawn shall, unless sooner released, be released from withdrawal five years from the effective date of the withdrawal, except that nothing contained herein shall be construed to prohibit further withdrawals of such lands upon compliance with the provisions of this section relating to notice and hearings.

SEC. 7. (a) The Secretary of the Interior shall periodically review the need for the continued withdrawal of any public lands of the United States which upon the date of enactment of this Act are withdrawn from settlement, entry, location, or sale and which he is authorized by law to release from withdrawal, and shall hold public hearings within any State in which any of such lands are situated upon the request of such State for the purpose of determining whether or not such lands should be released from withdrawal. The Secretary shall promptly cause any of such lands to be released from withdrawal whenever he shall determine, upon the basis of his own review or as a result of any such hearing, that the interests of the United States will not thereby be prejudiced.

(b) Any hearings authorized under subsection (a) of this section shall be held upon adequate notice. An opportunity to be heard in such hearings shall be accorded to all interested parties. A request for any such hearings may be made in writing by the Governor of any State in which the withdrawn lands are situated, or by resolution of the legislature of any such State.

SEC. 8. The provisions of sections 6 and 7 of this Act shall not be applicable with respect to any lands the withdrawal of which has been specifically authorized by Act of Congress.

Senator ANDERSON. Every member of this committee is keenly interested in bringing about the broadest possible use of the resources of our public domain, national forests, and mineral deposits for the general benefit of the people of this country. The rapidly expanding economies of our Western States have been accompanied by a growing need for more intensive use of our public domain.

The high tempo of our housing industry has brought about heavy demands for timber; stock growers need more grazing area to meet

the increasing consumption of meat; our mining industry is constantly hunting for new sources of mineral supplies to replace those consumed during the last war and to meet the ever-increasing requirements of our industrial economy; and the public generally is seeking out new recreational areas. These demands for more general use of the public domain have resulted in the development of conflicts over the use of the surface of mining claims located on the public lands and in the national forests.

As a Member of the House of Representatives, as Secretary of Agriculture, and as a Senator, I have always been a staunch supporter of mineral development on our public domain as well as the broader use of the surface resources thereon. Over the past several years the need for legislation to solve the problems that have arisen as a result of the abuses of the mining laws by individuals seeking surface resources under the guise of locating mining claims has become more and more apparent. The Federal agencies have been impeded in their administration of the public lands and the national forests by the actions of these individuals, relatively few in number, happily, and our great domestic mining industry has suffered much unfortunate adverse publicity because of these persons who are not real miners.

Proposed legislation has been introduced at a number of previous sessions of Congress with the intent of preventing these abuses while still not interfering with our legitimate mining industry, or changing the basic theories of the mining law of 1872. Such proposed legislation has not been enacted because of the conflicting and opposing views of users of the public lands and the executive agencies concerned.

At this session we hope to enact a law which will both overcome the problem of mining law abuse without disturbing the basic principles of the mining laws, and provide for multiple development of surface resources in the broad public interest. The purpose of my bill, S. 1713, is to accomplish that goal.

At this time I should like to pay sincere tribute to the Departments of Agriculture and Interior, to the members of our great mining industry, and to those interested in the conservation of our natural resources for their cooperation and assistance in helping me and my colleagues work out what we believe to be a sound and constructive solution of this problem which has been before us for such a long time.

I and the other sponsors of this measure believe that it will go a long way toward eliminating many of the abuses of the mining laws. It will provide for multiple use of the surface of mining claims located in the future. It will enable the Government departments to clear up title uncertainties, both in the National Forest and on other public lands, resulting from the existence of abandoned, invalid, dormant or unidentifiable mining claims. It will guarantee the miner a full title to his claim when it goes to patent and will likewise guarantee his full rights for prospecting, mining and related activities before it goes to patent.

It is our plan to hear all witnesses, for we desire to obtain the views of everyone who wishes to express them on this problem. But in order not to prolong these hearings and to permit as many as possible to be heard, we request that witnesses eliminate as much repetitive testimony as possible. Full statements may be filed with the committee

and they will be printed in the record of these hearings. The committee will give careful consideration to all testimony submitted, but it does ask that you keep your remarks brief.

It is my hope that as a result of these hearings we shall be able to sit down and write a bill which will prevent future abuse of the mining laws and bring about broad use of the public domain in the national interest.

The committee already has received a number of letters and telegrams in support of this proposed legislation, and I will direct that they appear in the record at the conclusion of the oral testimony. I might add, parenthetically, that so far the committee has not received any word of opposition.

We have a number of witnesses from the executive agencies, from the mining, lumbering, and stock-raising industries, and from persons interested in conservation. Since this bill amends the mining laws and affects the mining industry perhaps more directly than any other group, it seems logical that we should hear from a spokesman from the American Mining Congress first. Therefore, I will ask Mr. Ray Holbrook, of Salt Lake City, Utah, to take the stand. Mr. Holbrook, we are glad to have you with us here today.

STATEMENT OF RAYMOND B. HOLBROOK, ATTORNEY, UNITED STATES SMELTING, REFINING & MINING CO., AND CHAIRMAN OF THE PUBLIC LANDS COMMITTEE OF THE AMERICAN MINING CONGRESS

Mr. HOLBROOK. Thank you, Mr. Chairman. I would like to say, Senator Anderson, that I think your preliminary statement is a very fine presentation of the problem we have and a comprehensive résumé of your measure. I shall comment on the bill in somewhat more detail.

My name is Raymond B. Holbrook and I reside in Salt Lake City, Utah. I am an attorney and am employed by United States Smelting Refining & Mining Co. as counsel of western operations. My work during the past 17 years has required detailed study of mining laws. I am chairman of the Public Lands Committee of the American Mining Congress and appear before you as its representative. The American Mining Congress is the national organization of the mining industry and is composed of both large and small producers of all metals and minerals mined in the United States.

That organization and its membership have been very much concerned about the problem of mining locations which have been attempted for a purpose other than the recovery of minerals. The purpose may be an attempt to control the timber on the land, or a choice site for a summer cabin, or an area which may have nuisance value. Such locations fall into two categories:

(1) Clearly invalid mining locations, unsupported by any semblance of discovery, and

(2) Mining locations having mineral disclosures which might satisfy the basic requirement of discovery, but which were in fact made for a purpose other than mining.

I think it is generally known that the mining industry has never condoned the making of such locations and, on the contrary, has urged the use of available procedure to defeat them.

The following statement appears in the declaration of public land policy adopted by the American Mining Congress at its annual meeting in San Francisco in September 1954:

We believe * * * that suitable amendments can be made in the general mining laws which, with proper use of available procedures, will simplify enforcement and minimize bad faith attempts through pretended mining locations to serve objectives other than the discovery and development of minerals. We believe that this can be accomplished in a manner which will protect the incentive and reward now inherent in the mining laws.

We have had the pleasure of working with the Forest Service and the Bureau of Land Management and understand their position is that these problems could not be entirely met by effective administration of existing laws for the following reasons:

1. The available remedies are slow, expensive and not conclusive, and
2. There is great difficulty in establishing the invalidity of a location, supported by discovery, on the basis that the location was made for a purpose other than mining.

Both the Agriculture and the Interior Departments have strongly emphasized that there should be no roadblocks placed in the way of mineral discovery and development and that they wish to encourage bona fide prospecting and utilization of mineral resources in the national forests and on other public lands.

The mining industry has been disturbed by proposals which would establish one set of rules for mining locations in national forests and another set for those outside; or which would result in forfeiture of a mining claim for failure to perform certain acts; or which would require application for patent within a certain time; or which would restrict the rights granted by a patent for a mining claim. We believe that the unprecedented development of the mineral resources of this Nation and its ability to produce the basic raw materials so essential to our economy and so vital to our national defense is largely due to the basic concepts and principles of our mining laws. They are based on the premises that minerals in public lands should be developed by private enterprise and that, as an incentive and reward for discovery and development of them, title to the lands may be acquired in private ownership.

It is becoming increasingly more important that all of the resources of the public domain be discovered and utilized. The dawn of the atomic age started the greatest mining rush in American history and alerted us to the importance of continuing to develop and discover our mineral resources. The demand for timber, forage and recreational facilities also requires maximum utilization of these resources of the public domain.

Last year Congress enacted Public Law 585 "to amend the mineral leasing laws and the mining laws to provide for multiple mineral development of the same tracts of the public lands, * * *." The bill before this committee proposes to provide for multiple use of the surface "of the same tracts of the public lands * * *." Its particular objectives are:

- (a) To eliminate attempts to make mining locations for purposes other than mining;

(b) To provide for conservation and proper use of timber, forage and other surface resources on mining claims and on adjacent lands; and

(c) To accomplish these ends without materially altering the basic concepts and principles of the general mining laws.

The method of accomplishing these objectives would, under the bill, be:

1. To prohibit the use of any hereafter located unpatented mining claim for any purpose other than prospecting, mining, processing and related activities.

2. To ban future locations under the mining laws for common varieties of sand, stone, gravel, pumice, pumicite and cinders, and provide for the disposition of these materials under the Materials Disposal Act.

3. To authorize the United States to manage and dispose of the timber and forage, to manage the other surface sources, and to use the surface of hereafter located mining claims for these purposes and for access to adjacent land, so long as these activities do not endanger or materially interfere with established mining operations or related activities.

4. To provide an in rem procedure similar to a "quiet title" action, under which the United States could expeditiously resolve title uncertainties, resulting from the existence (frequently unknown and otherwise not determinable) of invalid, abandoned or dormant mining claims, located prior to enactment of the bill, in any given area; and in connection with such a proceeding, to provide safeguards for the proper protection of established rights under heretofore located mining claims.

I would like to comment briefly on each section of the bill.

Sections 1, 2, 3, and 4 apply only to mining locations made after enactment of the bill. They do not affect rights under existing valid mining locations.

I should like to discuss section 3 first. It would close the door to mining locations based on discovery of a deposit of common varieties of sand, stone, gravel, pumice, pumicite or cinders. It would not preclude mining locations based on discovery of some other mineral occurring in or in association with such a deposit; for example, a mining location based on a discovery of gold in sand or gravel could be made. By definition of the term "common varieties," deposits of such materials which are valuable because the deposit has some property giving it distinct and special value could continue to be located under the mining laws, as could also "block pumice" which occurs in nature in pieces having one dimension of 2 inches or more. The provisions of this section are similar to those of the Regan bill, which the House passed at the last session of Congress and to the Young bill which is before this committee this year. Probably the greatest area of conflict has been mining locations where the discoveries asserted were common varieties of sand, stone, gravel, pumice, pumicite or cinders, which occur in so many places and over such wide areas. We believe that enactment of this bill would eliminate this broad area of conflict without creating any problem of consequence in the mining industry.

Sections 1 and 2 of the bill would amend sections 1 and 3 of the Materials Disposal Act to extend its applicability to the deposits

which, as mentioned previously, could no longer be located under the mining law.

Section 1 of the bill would effect two major changes in section 1 of the Materials Disposal Act.

(a) By the express terms of section 1 of the present Materials Disposal Act, it does not apply to lands in national forests. Section 1 of the bill would remove that restriction in addition to broadening the act, as above mentioned, to include the widely occurring surface minerals as noted. There should be provision whereby mineral or vegetative materials may be disposed of under circumstances when such disposal (1) is not otherwise expressly authorized by law, (2) is not expressly prohibited by law, and (3) would not be detrimental to the public interest. The proposed amendment so provides.

(b) The present Materials Disposal Act provides that dispositions under it shall be made by the Secretary of the Interior. The proposed amendment provides for dispositions by the Secretary of Agriculture where the materials are on lands administered by him. This would avoid interference with national forest administration as a result of the removal of the present national forest restriction.

In these changes you will recognize the broad objective of full utilization of national resources in the public interest.

Section 2 would amend section 3 of the Materials Disposal Act by adding a provision for disposition of moneys received from the disposal of materials by the Secretary of Agriculture. The purpose of and need for this change has clear relation to the proposed changes in section 1 of the present Materials Disposal Act.

Section 4 of the bill specifies the rights, limitations, and restrictions under an unpatented mining claim hereafter located.

It recognizes essential rights—mining claims could be used for prospecting, mining, processing and related activities, though not for unrelated activities. Timber thereon could be cut by the mining claimant to provide clearance. Timber and other surface resources thereof required for mining and related activities could be used by the mining claimant.

It imposes limitations and restrictions upon other uses—mining claims could not be used for any purpose other than prospecting, mining, processing and related activities. The United States would be authorized to manage and dispose of the timber and forage thereon, and to manage the other surface resources thereof, and to use so much of the surface of the mining claim as may be necessary for such purposes, or for access to adjacent land, so long as and to the extent that these activities do not endanger or materially interfere with mining operations or related activities on the mining claim. The mining claimant could not remove or use timber or other surface resources thus subject to management and disposition by the United States, except to the extent required in his mining operations or related activities. Any timber cutting by the mining claimant, other than that to provide clearance, would have to be done in accordance with sound principles of forest management.

After patent, the patentee, as in the past, would acquire full title to the mining claim and its resources. Acquisition of patent, as the members of this committee know, requires compliance with the mining laws as to location, mining expenditures and payment of the Government purchase price, and a determination by the Department of

Interior as to the validity of the claim and full compliance with law.

Section 5 involves only mining locations made before enactment of the bill. It provides an in rem procedure similar to that contained in Public Law 585 which resolved the conflict between the mining laws and the Mineral Leasing Act. The in rem proceeding under Public Law 585 was one available to those holding application, permit or lease under the Mineral Leasing Act. The in rem proceeding under section 5 of the proposed bill is available to the secretary of any Federal department having responsibility for administering surface resources of land belonging to the United States. This should simplify administration and facilitate understanding by those concerned. This procedure would enable a Government department to resolve title uncertainties resulting from the possible existence of invalid, abandoned, dormant or unidentifiable mining claims located on the public domain, including lands in the national forests. The procedure follows generally the long established procedure applicable to securing mineral patents, whereby those who claim rights adverse to those of the patent applicant, are required to come forward and assert them.

Careful provision is made for notice of the pendency of such a proceeding.

Subsection (a) of section 5 requires a preexamination of the lands, to ascertain, if possible, any parties in possession. A notice of the proceeding must be published in a newspaper having general circulation in the county in which the lands involved are situated. A copy of the notice must be personally delivered or be sent by registered mail:

1. To each person found to be in possession or engaged in working the lands involved in the proceeding, and

2. To each person who has filed in the county office of record a request for such notice as contemplated under subsection (d); and a copy of the notice must be mailed by registered mail to each person who is shown by a title search to have an interest in the lands.

Senator WATKINS. Just a moment, there. Would you say "have an interest" or "claims an interest" in the lands?

Mr. HOLBROOK. It would be shown as an interest of record, Senator.

Senator WATKINS. The person could be someone claiming an interest. The interest might not be an actual interest.

Mr. HOLBROOK. If they claimed an interest, such a claim would entitle them, I think, personal notice, or mailing to each person found in possession. They would be the ones that would claim it, I think, Senator. If they claim an interest, as they are entitled to notice, and I think it so provides. But it also provides for searching the record to see if there is any record interest. And that is what is intended by the last line. Does that answer the question, Senator?

Senator WATKINS. What I had in mind was this. There might be only a claimed interest, under any of these sections. You see what I have in mind?

Mr. HOLBROOK. Oh, yes. I quite agree with you.

Subsection (b) specifies the consequence of failure of a mining claimant (within the allowed 150 days after first publication of the notice) to make an appearance in the proceeding and assert his rights. If he does not do so, he cannot thereafter assert any rights under his mining claim which are contrary to, or in conflict with, the limitations or restrictions specified in section 4, but he would not lose any other

rights under his claim. In other words, the claim would thereafter have the same status as a claim located in the future.

Subsection (c) provides that when a mining claimant asserts rights which conflict with the limitations and restrictions specified in section 4—in other words, rights to the surface resources generally—there shall be a local hearing to determine the validity of such rights. Any single hearing is limited to a maximum of 20 mining claims, unless the parties otherwise stipulate. This would limit the length of the hearing and the cost of a transcript so that they would not be an unreasonable burden. The procedure with respect to notice of and conduct of the hearing and appeals would follow the then-established Interior Department procedures and rules of practice.

Subsection (d) permits a mining claimant to avoid the danger of oversight of a published notice and to be assured of notice of an in rem proceeding affecting his claim by recording in the county office of record a request for a copy of any such notice, giving his name, address, and certain data as to each unpatented mining claim under which he asserts rights.

I think that provision will be generally used to avoid the necessity of constantly watching newspapers for published notice.

Subsection (e) provides that the publication of notice shall be wholly ineffectual as to any person entitled to be served with or to be mailed a copy of the published notice, if the notice is not so served upon or mailed to him. That, in brief, is a prerequisite for jurisdiction.

Section 6 permits the owner of an unpatented mining claim, located before the effective date of the act, if he so desires, to waive and relinquish all rights thereunder which are contrary to or in conflict with the limitations and restrictions specified in section 4; in other words, to agree to the surface rights status applicable to a mining claim located after enactment of the bill. Such a waiver or relinquishment would not constitute any concession as to the date of priority of his rights under the mining claim or as to the claim's validity. This section should permit and encourage cooperation and avoidance of much controversy.

Section 7 is a general construction provision designed to make it clear that the act does not purport to destroy existing rights or to restrict the postpatent title of a patentee.

Senator WATKINS. May I ask you a question at that point? Would that be in conflict with section 4, which imposes the restrictions, and the proceeding in rem, to take away from any locator rights which he thinks he now has under the law to use timber and to use the land surface for any other purpose?

Mr. HOLBROOK. Senator, that is a very good question, but from your wide experience as a judge, I know you are familiar with the consequence of a "quiet-title" proceeding.

Senator WATKINS. Yes, I understand that. But you say section 7 is a general construction provision designed to make it clear that the act does not purport to destroy existing rights or to restrict the postpatent title of a patentee.

Mr. HOLBROOK. Yes.

Senator WATKINS. Well, whether he does or does not have any rights under his location now, before this law is passed, there may be a question of fact and of law.

Mr. HOLBROOK. The act itself, as I would construe it, would not destroy his rights, but he may lose them if he does not come in and assert them, as any defendant would have to in a "quiet-title" proceeding, or in a proceeding for an application for patent.

Senator WATKINS. In other words, what you are saying here is that the law does not take away any rights that he actually has.

Mr. HOLBROOK. That is right. That is our intent.

Senator WATKINS. And if he claims those rights, he would have to come in and defend them, but it would permit the court to find in his favor if he established that he had those rights under existing law.

Mr. HOLBROOK. That is very well stated.

Senator WATKINS. Prior to the enactment of this bill.

Mr. HOLBROOK. That is right. That is correct.

In conclusion, I would like to state that it is the considered opinion of the American Mining Congress, and of myself, that enactment of the legislation before you would be in the public interest. In our opinion, it will not impede mineral discovery or development on the public domain. We believe that it will protect mining claimants in their use of unpatented mining claims for prospecting, mining and processing operations, and uses reasonably incident thereto. The bill will impose upon the holders of future unpatented mining claims limitations and restrictions which have not applied in the past; but we recognize that the improper actions of a minority of those who have located mining claims have created problems; and we feel that the legislation will serve to remove the bases of those problems without destroying the vital principles under which the mineral resources of this Nation have been developed. We also believe that it will contribute to the best utilization of our Nation's natural resources.

We appreciate the opportunity to present our views to this committee and we wish to commend the sponsors of the bill for their fine efforts to arrive at a constructive solution of this problem of mining law abuses which has been before Congress for so many years.

Thank you, Mr. Chairman.

Senator ANDERSON. Thank you, Mr. Holbrook, for a very careful and clear statement. It will be very useful to the Senate in considering S.1713 to have a statement of the facts, such as you have just made.

While you are here, I would like to ask your opinion on three proposed amendments, which have been presented to the committee as desirable.

One of these is proposed by Senator Watkins, and it has been proposed in exactly the same language by Senator Kuchel. I hope you are familiar with that. It is a suggested amendment in the form of a new section to be added to the bill as a section 8:

Notwithstanding any other provision of law, any mining claim located upon unsurveyed public lands, which, when surveyed, is on a section granted to any State for the support of its common schools by the enabling act of such State, shall not create any right, title or interest as against such State, but such State shall acquire title to such section or sections of land the same as though no mining claim had been located thereon: *Provided*, The locator, his heirs or assigns, of any mining claim on public lands which, upon survey, are granted to a State by its enabling act for support of the common schools shall have priority to lease such land from the State upon such terms as the State may determine to be fair and equitable.

(COMMITTEE NOTE.—The same proposed amendment subsequently was submitted to the committee by Senator Carl Hayden, of Arizona.)

Now, would you tell us whether, first of all, the American Mining Congress, if you are in a position to speak for it, would be opposed to the addition of this amendment, and whether you personally, being familiar with mining practice and law, think it would help or hurt the bill.

Mr. HOLBROOK. Mr. Chairman, I shall be very glad to discuss this in a rather impromptu fashion.

Senator ANDERSON. I apologize. I have no other way of giving you notice of the amendments that have been proposed. As a matter of fact, the amendments from the Interior Department and Agriculture Department did not reach the committee until a half hour ago, so we had no chance to submit them to you in advance.

If, upon later study, you desire to file some additional statement, we will be glad to receive it. You are not foreclosed by the action this morning. You may study it and say, "I do not like what I said in an impromptu fashion, and on closer study I think it is bad," or "I think it is good," or something else. With such an understanding, then, we will be glad to have an informal expression of opinion from you.

Mr. HOLBROOK. I should say that I am not entirely unaware of the proposal, Senator, and I will be glad to try and discuss it. Now, in brief, as I understand this proposal, it would in effect provide that if a mining claim were located on any so-called school section, as designated in the Enabling Act of the State, that mining claimant would have no rights as against the State, except that there would be a preference right to a lease.

I can speak best, Senator Anderson, with respect to my own State, because I am somewhat familiar with the law there.

Senator WATKINS. As a matter of fact, Mr. Holbrook, Utah is a State in which very little work has been done on the surveying of public lands. I mean the lands that would go to the schools under the Enabling Act.

Mr. HOLBROOK. That is quite right. And I think it would be germane to ask:

Could you tell me, Mr. Hoffman, or could you tell me, Mr. Woosley, approximately what percent of the State of Utah is unsurveyed?

Mr. WOOSLEY. I know in acres. Mr. Holbrook, there are approximately 10 million acres in the whole State still unsurveyed, of which about 5 million acres is in the unsurveyed public domain. We have surveyed 50 townships, approximately, in the last year, which would give the State about 200 more sections. But there still remains $4\frac{1}{2}$ to 5 million acres in the unreserved public domain.

Senator WATKINS. Where have those 200,000 acres been surveyed? In what section of the State?

Mr. WOOSLEY. It has been where the State Land Board has requested. I couldn't tell you.

Senator WATKINS. Is it down in the uranium area, where they are prospecting for uranium?

Mr. WOOSLEY. It is where the interest is highest. So the State would get the sections first where the most interest would be shown.

Mr. HOLBROOK. In the State of Utah, the Enabling Act provides that four sections in each township may be school sections. These are sections 2, 16, 32, and 36, which gives a spread over the township.

Now, if we get the picture, that until survey we do not know where those sections are, it is impossible to locate them. Under the law as it now exists, they do not become school sections until the surveys are completed.

Senator WATKINS. Still, the State has an equitable interest in them, does it not, under the Enabling Act? There remains something yet to be done. They had to be surveyed, and all that sort of thing, to get them over, so that the State would have those sections? They must have some sort of an equitable interest in them.

Mr. HOLBROOK. I think that is a proper statement, Senator.

However, under the law, as the Enabling Act has been construed, there is no interest to any lands that have been entered before the survey has been completed; and the State has the right to select lieu lands in place of those that have been located or entered.

Now, the great problem that I see with respect to such a proposal is that a locator on any one of those areas would have no rights against the State of Utah except a preference right to a lease. In the State of Utah as of now the typical hard-minerals lease carries a flat royalty of $12\frac{1}{2}$ percent. So when a man located his claim, his problem would be: "Have I got a location which may be perfected into a valid fee title or have I merely a so-called preference right to a lease, without any knowledge as to what that preference may be?"

As of this moment, the royalty may be $12\frac{1}{2}$ percent. It may be more. It could be less. But I ask you to consider the consequence of such a situation if a man is contemplating making a substantial investment in a mineral operation.

Now, if this were just limited to the particular school sections, there would be some confining of the problem. But it isn't. Since you cannot locate these areas definitely, if you would shift in any one direction the lines of survey, you would involve additional tracts in the uncertainty.

I have just had sketched out here, Mr. Chairman, what would be involved in four townships, coloring in red the school sections and in yellow the area affected by a shift one one-half mile. I think such an amendment would very effectively withdrawn from entry under the mining laws a very important part of our public domain, with very serious complications.

Senator WATKINS. Well, if the equitable title happens to be in the people of the State, should not the State get all the benefits from those lands? It is not the State's fault that these surveys have not been made. It has been going on for years, ever since Utah was admitted to statehood. Now, from the standpoint of the equity, just dealing with the people of the State, it would seem to me that the Federal Government has been rather lax in getting these surveys undertaken.

Years ago, when I first came here, I introduced a bill to bring about the survey of these school lands in Utah. But after the departments had reported, they each one recommended an amendment, loaded the bill up with them, and made it about \$150 million, and of course, I did not have the slightest chance of getting it through the Congress loaded with all those amendments, and I could not get it through without them.

But the State is now in a position where immense values are found in some of these areas. The lieu-land provision does not help the State if they are given a piece of desert ground that is not worth any-

thing. For instance, if they have to give up the equitable title to a piece of land that is worth many millions of dollars for uranium, or whatever they find on it. We have those problems in these public land States. And I know you know, Mr. Holbrook, that our schools in Utah are our pride and our joy, and we are constantly arguing out there with different people who have ideas as to how we are to finance them, as to how that is to be done. And here is a resource that has been lying there idle for many, many years. I think the State probably should have been a little more active in urging the Department of the Interior of the United States to get busy with these surveys.

Recently we have undertaken some more activities than have been carried on in the past, and we probably should have more. But I can see that the State could lose some very valuable rights there, some very valuable lands.

I can understand that the mining locator could go out and make his mining location, and he could get the land for practically nothing, and if he had to lease from the State of Utah, he would have to pay a pretty good rental for it.

Senator ANDERSON. But he also has to pay a property tax when he gets it outright, where he does not have to pay it when he gets it under a State lease. There is some offsetting advantage.

Senator WATKINS. A State lease? I think we have a way of getting at that, too, for taxes. At least, if we have not, we had better find one. We have a difficult time to maintain our schools. That is one thing that is of primary interest to every one of us, including the mining people there, too. We have to maintain those schools somehow. And it cannot all be placed just on the ordinary business and agricultural interests of the State to develop. The mines have carried a fair share of the load, we know. And they are carrying more of it since we have the equalization program adopted.

Senator ANDERSON. Did I hear you say they had surveyed 200 townships, Mr. Woolley?

Mr. WOOLLEY. Two hundred sections, 50 townships, and the State gets 4 sections in each township.

Senator WATKINS. Four sections. But that is just a small start.

Mr. WOOLLEY. Yes, I have not figured it up, but it would be somewhere near a half million acres.

Senator ANDERSON. I had a somewhat similar experience to yours. I tried, when I was in the House of Representatives, to put through an appropriation setting up a certain sum of money each year to complete the surveys in our Western States. My bills ran into all kinds of opposition, because it was not felt that the amount of money was justified. The sums required did run into a lot of money. A hundred million dollars, or more, would have been required to finish the surveys at that time. But I do not see how the Federal Government can fail to undertake a program to finish these surveys.

Senator WATKINS. The program is now under way. But in the meantime, this land was intended to go to the State with whatever it had in it.

Senator ANDERSON. Was it the intent of the enabling act to deed to Utah just nonmineral sections?

Mr. HOLBROOK. May I make an observation on that, Senator Anderson? It was definitely determined by the Supreme Court that

no minerals were to pass under these enabling act grants. They did not carry any minerals at all, Senator.

By an act in 1927 and an amendment in 1932, Congress provided that there be an additional grant to the States of minerals in the school sections.

I think the primary purpose of that amendment was to clear up title problems that had resulted because of uncertainty as to whether lands were mineral or nonmineral at the time of the completion of the survey. It was called an additional grant. But those amendments expressly provided that it would not affect any entries or any mining locations which had been made up to that time.

Senator WATKINS. Up to the time the amendment was adopted. But it had the effect, also, of putting the State in the position where it should get the mineral rights as well as the surface rights.

Mr. HOLBROOK. Not until the surveys had been completed, as you, I think, well appreciate, Senator.

Now, to develop that just a little more, if I may, on the merits of it, last year Congress provided that upon survey, if there were an oil and gas lease on lands in which the State acquired title, the State would succeed to the lessor's interest. In other words, the State would then be entitled to the royalties. Now, do you see the difference in the problem that we have to that situation? Here is a case where the only rights that could be acquired by the person developing the resources were lease rights. You can only develop oil and gas under the Mineral Leasing Act. So the party developing those rights had no problems. It was merely a question: "Do I have to pay royalties to the United States, or do I have to pay royalties to the State of Utah?" He is still operating under a lease and under the same terms.

Now, the situation here is wholly different. Here is a case where a mining claimant is faced with the problem of: Have I got a tract of land which, upon showing of an adequate discovery, the performance of work requisite for patent, and completion of patent, will entitle me to a fee-simple title? Or have I got merely some kind of a preference to a lease, the terms of which are unknown?

Senator WATKINS. I can understand the difference, all right, but I can also understand the interest of the State in protecting whatever rights it has, or should have, as a matter of equity, in these lands that are unsurveyed.

Mr. HOLBROOK. Well, may I make one other observation, Senator?

Senator WATKINS. Of course, they at least know where the township is or whether the survey has been finished or not. It may be inconvenient. I don't know. This amendment was a suggestion that was sent in for study. I had not made up my mind whether it was a good amendment or a bad one.

Senator ANDERSON. Senator Watkins, Senator Kuchel had a similar suggestion. And that is why I thought we ought to get expressions on this now.

Senator WATKINS. I am glad you are asking these questions. I intended to bring up the proposed amendment this afternoon after a little further study of it, but I am glad it was brought up now.

Senator ANDERSON. If we do not ask questions about it in the hearing, when we go into committee to take executive action on the bill, we will not know how the industry representatives felt on these proposals.

Could I get you to comment on a second one, also?

Mr. HOLBROOK. Could I make one more observation on that, Senator?

Senator ANDERSON. Surely.

Mr. HOLBROOK. I think the really germane problem that we must consider here is the effect and consequence of such an amendment on the development of the mineral resources of the State. After all, if it is going to impede the development of the mineral resources, I think the overall result will be a loss to the State, not a gain, Senator. Actually, the amounts that have been paid into the Treasury of the State of Utah in these royalties are very small as of now.

Senator WATKINS. You mean on the one we are getting from the development through the leasing of oil-coal lands?

Mr. HOLBROOK. No, there has been a substantial sum payable on oil and gas, I think.

Senator WATKINS. Of course, the State gets the benefit of that 52½ percent that is paid in to the reclamation fund. That is, if we get any reclamation projects out of the authorizing bill.

Mr. HOLBROOK. No, I am talking about royalties on hard minerals. It is very small as compared with the revenues that come from the mining operations in the State; tax revenues.

Senator ANDERSON. Do you think that situation is going to continue? I am unable to comment on this fully, because I do not remember whether it had a classified tag on it or not, but I saw just the other day an estimate made by the Atomic Energy Commission of the amount of uranium there might be in Colorado, Utah, and New Mexico. I do not know how much of those estimated uranium reserves are on public lands, but a very sizable amount is, I know.

Mr. HOLBROOK. What I am thinking of, Senator, is this: Will not the overall be a loss to the State if we are creating clouds and uncertainties in the titles, that throttle investment, as compared to what the take of the State will be if industry knows what its titles are and makes its investments, and great industries result?

You see, you have to bear in mind that we have a corporate tax in the State of Utah, and we have a proceeds tax and an occupation tax. There are very substantial sources of income, as the Senator has pointed out, from mines in Utah.

Senator WATKINS. You could probably get a separation tax.

Mr. HOLBROOK. We have one now, Senator. Yes, the occupation tax is a severance tax in the State of Utah.

And my personal feeling is that actually the State would suffer as a result of the uncertainty that would result from the proposed amendment.

Senator WATKINS. Well, I am glad to get your opinion on it.

Mr. HOLBROOK. I think it poses some particular problems in relation to an amendment such as a bill like this, which was not designed to meet this situation. I am in complete agreement with you as to the importance of completing the surveys as quickly as possible. That would not result in any uncertainty.

Senator WATKINS. I may say now, if I may be permitted, that if we do not get an amendment, something of that kind, to protect the State, I intend to offer an amendment to an appropriation bill coming along to step that survey program up. And I hope that it will be adopted, either in this committee, by an amendment such as we have here,

or something like it, or in the Appropriations Committee, to take care of the State. We have some valuable interests there. And while you may be right on what we actually will get out of it, under the development, and the taxing of any developments, any industry that comes in under those circumstances, at any rate not only Utah, but Arizona and California have large problems in that same field, and I think probably New Mexico and other States have in the public land States.

Senator ANDERSON. You think it would be detrimental to this bill if we attempted to attach that amendment to it?

Mr. HOLBROOK. I definitely do, Senator.

Senator ANDERSON. Senator Kuchel.

Senator KUCHEL. First of all, I want to say that I have received a letter including the same amendment from my State Lands Commission. I have not yet formed an opinion as to the merit of the proposal. I asked the committee to consider it today so that we might have a little guidance in determining whether it ought to be adopted.

But let me ask you from a strictly legal point of view: It is correct to say that public lands which are unsurveyed, nevertheless, to the extent that they may be school lands or sections, are owned by the State subject to the Federal survey?

Mr. HOLBROOK. Well, I think that has been construed, and I think probably Mr. Hoffman could answer that better than I could, that the State does not own them until the surveys have been completed, Senator.

Senator KUCHEL. So that it lies within the Congress to determine whether in the future, for example, it might not desire to give school lands to the States. Is that correct?

Mr. HOLBROOK. Are you directing that to me?

Senator KUCHEL. Yes.

Mr. HOLBROOK. Oh, I think it would be within the purview of Congress to enact such a law. But I think there has been much wisdom in the way it has been handled in the past, because of the great uncertainty in land titles that would result. I think that has been fully anticipated.

Senator ANDERSON. You think the Congress can go back now and change the Enabling Act?

Senator WATKINS. Not to the detriment of the State, but you could amend it in favor of the State.

Senator KUCHEL. That is very important in connection with this proposed amendment, I think.

Mr. HOLBROOK. I do not know whether Mr. Hoffman has an observation, Senator, that he would care to make, or whether you would care to hear it at this time, or later.

Senator WATKINS. Where is Mr. Hoffman?

Mr. HOLBROOK. Mr. Hoffman, from the Bureau of Land Management, is over there [indicating].

Mr. HOFFMAN (Lewis E. Hoffman, Chief, Mineral Division, Bureau of Land Management, Department of Interior). I just want to call attention to the fact that where a school section, such as the 4 sections in Utah and the 2 sections in California, is unsurveyed, and consequently the State cannot obtain title to it, they have a right to take lieu lands anywhere, unappropriated vacant lands, in lieu of what they would lose by not maintaining title to the school sections. Such an amendment as the Senator has proposed, in my opinion, would

properly be an amendment of another law, of a new law, rather than this act.

Senator ANDERSON. But if the problem is what Mr. Holbrook has outlined on this chart, and the shifting of the survey a half mile one way or the other is going to change the pattern, you cannot take the lieu land either, can you? You can get lands someplace else in the State—if you can find them—but suppose the only land open for selection is the unsurveyed areas?

Mr. HOFFMAN. That is a problem, Senator.

Senator ANDERSON. It is not only a problem, it is an impossibility.

Senator KUCHEL. If the State were to exercise such a right and determine that it wanted lieu lands, would the patent, or the fee, or the grant, from the Federal Government to the State, include minerals?

Mr. HOFFMAN. No, I'd suggested that an amendment of that kind would partially solve the problem; except for the remark of Senator Anderson.

Senator ANDERSON. You get the difficult point that all the land is in this one place and it waits for the survey, and until the survey is completed, the State cannot do much.

Mr. HOLBROOK. I think the amendment is like locking the barn after the horse is out. I am very reliably informed that in the county of San Juan in Utah, which is one of the major areas of uranium activity on unsurveyed lands, that there have been enough mining locations filed already to cover more than twice the unappropriated area in that county. And in my opinion Congress could not pass a law that would affect a vested right under a valid mining location.

Senator ANDERSON. I only want to suggest here that we have nine more witnesses coming along. I hoped we might get just a fairly quick statement from you, and we will be glad to have you amplify for inclusion in the record a further opinion on this amendment. Now I will ask about a second amendment, and then a third, so that other witnesses may have a chance.

The Department of Agriculture has suggested some language on line 22, page 3, of the bill. As an exception therein, it says, after the word "except":

that revenues from the lands described in the act of August 28, 1937 (50 Stat. 874) and the act of June 24, 1954 (68 Stat. 270) shall be disposed of in accordance with the provisions of such acts, and except—

and so forth. This refers to the O. & C. lands, does it not?

Mr. HOLBROOK. Senator, I am not familiar with the details in respect to that, but I do not see how the mining industry would be affected adversely by any particular provision relating to the disposition of moneys.

Senator ANDERSON. Well, our former chairman, ex-Senator Guy Cordon, discussed this amendment with me. He is always very interested in the O. & C. lands.

Senator MALONE. What is the amendment?

Senator ANDERSON. Well, it would except from this provision the O. & C. lands, exactly as it excepts other areas:

The purpose of this amendment is to make it clear that revenues from O. & C. lands under the administration of the Department of the Interior and lands administered by the Department of Agriculture under the 1954 act will be placed in the O. & C. fund.

Senator MALONE. What is that O. & C.?

Senator ANDERSON. It is a fund from revenues from the former Oregon and California railroad grant lands. Those revested in the Federal Government. There has been a long running fight between the Department of Agriculture and the Department of the Interior as to which agency should administer them. The amendment says that its purpose is to make clear that the revenues from the O. & C. lands under the administration of the Department of the Interior and lands administered by the Department of Agriculture under the 1954 act will be placed in the O. & C. fund.

Mr. HOLBROOK. I think that is all right.

Senator ANDERSON. There is not an objection to that?

Mr. HOLBROOK. We have no objection.

Senator ANDERSON. And the last amendment is one suggested by the Western Oil & Gas Association, setting forth that nothing in the bill will change Public Law 585, the Multiple Purpose Act, passed by the last Congress.

Here it is:

And nothing in this Act shall be construed in any manner to modify, amend, supersede, or repeal any of the provisions of the Act of August 12, 1953 (67 Stat. 539), or the Act of August 13, 1954 (68 Stat. 708).

The first act was a stopgap measure and we subsequently took final action under the Multiple Purpose Act, Public Law 585, 83d Congress. Do you think the Multiple Purpose Acts are involved in S. 1713 in any way?

Mr. HOLBROOK. Senator, I am familiar with both of those acts, and I don't see any way that this proposed legislation could possibly affect the multiple-purpose acts.

Senator ANDERSON. Do you feel that adding this language would confuse S. 1713?

Mr. HOLBROOK. No, I can't say that I think the language would be particularly harmful.

Senator ANDERSON. Would you mind studying it and giving us the advice of the American Mining Congress on it?

Mr. HOLBROOK. Yes, I will.

Senator ANDERSON. Now, I do not want to shut off other questions. I want to get those things started for the record.

Senator MALONE?

Senator MALONE. You are Mr. Holbrook, and you represent the American Mining Congress?

Mr. HOLBROOK. Yes, sir.

Senator MALONE. What position do you hold with the American Mining Congress?

Mr. HOLBROOK. I am chairman of the Public Lands Committee of the Congress.

Senator MALONE. You have studied this bill and you are in favor of it?

Mr. HOLBROOK. Yes, I am.

Senator MALONE. I notice a very interesting table here of the Department of Agriculture, noting the number of mining claims that are filed on unpatented lands on national forests, together with their acreage, and the estimated percent which produce minerals in commercial quantities is 2 percent of this whole area. This is Nevada.

The estimated percent considered valid under the mining laws is 60 percent. Now, what do you do when they are not valid under the mining laws? What is done.

MR. HOLBROOK. Well, I think there may be two possible remedies. I think the department could initiate a contest, Senator, or it may initiate a preceeding in court. But I know there has been a feeling on the part of both Agriculture and Interior that those remedies are not as effective as they would like them to be.

SENATOR MALONE. Well, why do they want them more effective? If they have a remedy in the court, is that not a customary remedy for a property right?

MR. HOLBROOK. That is a remedy that is often pursued, yes, sir.

SENATOR MALONE. Is there any other remedy when land is owned by anybody?

MR. HOLBROOK. Well, in this case you would have available departmental contest proceedings.

SENATOR MALONE. Could that not be initiated, or can it be? That is what I am asking you.

MR. HOLBROOK. Yes, it can be. It would not be as expeditious as the proceeding proposed here.

SENATOR MALONE. No, but that is what some of us are afraid of, that it would be a little too expeditious.

What is your background? Have you had experience in mining?

MR. HOLBROOK. I spent about 17 years devoting most of my time to mining law, Senator.

SENATOR MALONE. Private mining law?

MR. HOLBROOK. Most of the time during that time I was spending full time with the United States Smelting & Refining Co. Prior to that I was engaged for 7 years in general law practice.

SENATOR MALONE. Now, we have been very jealous of this mining act for a long time, because it was about the only thing left where a man without money or background or anything else except a little endurance and the will to do it could get out there and locate something that he thought might either contain mineral or lead to it; so that he could put a stick down and go to work. The law says he has to do a certain amount of work per year, called assessment work, does it not?

MR. HOLBROOK. That is right.

SENATOR MALONE. Do you think that assessment work is sufficient, or that it should be more, or less, or how would you consider the setup there?

MR. HOLBROOK. I think the assessment requirement is a fair requirement.

SENATOR MALONE. A hundred dollars a year, is it not?

MR. HOLBROOK. Yes, sir.

SENATOR MALONE. Of course, that is not as much work as it used to be, either.

MR. HOLBROOK. No; it is not.

SENATOR MALONE. Now they do it with bulldozers and other equipment.

MR. HOLBROOK. Yes. Of course, I think assessment work has generally been an evidence of the good faith of the locator more than requiring any specific amount of work.

Senator MALONE. Well, now, if that work is not done, naturally, if he does not file the work with the county clerk, he does not own the claim any more, does he?

Mr. HOLBROOK. That is not my understanding of the law, Senator.

Senator MALONE. What is it?

Mr. HOLBROOK. In the case that I do not do the assessment work on my claim, I have a perfectly valid claim as against all the world, including Government departments, except an adverse locator. Failure to do assessment work does not affect the status of my title, except that it opens the land to relocation. In other words, you could come and relocate my land if you do it before I have resumed work on the claim.

Senator MALONE. And before you have filed it?

Mr. HOLBROOK. If I have not done the work, or have not started to do it, before you make the location. I may be in default, but if I get started, even though I have not done a hundred dollars' worth of work, I can keep you off.

Senator MALONE. All right. Now, if that is sufficient work, and you feel that it is, and the man is entirely protected, who is doing his work and filing with the county clerk—that is what it requires, is it not?

Mr. HOLBROOK. Well, it isn't required that he file his proof. That is just proof of the work. The thing is that he must do the work. That is the test.

Senator MALONE. Now, if he has not filed with the county recorder, and another locator comes in, does he have an opportunity to prove that he did do the work and just neglected to file, and can make it a legal setup and keep the new locator off?

Mr. HOLBROOK. That is right.

Senator MALONE. In other words, he is pretty well protected, if he does any work.

Mr. HOLBROOK. That is right.

Senator MALONE. Now, he can patent this claim after he has done \$500 worth of work toward the development of his land, can he not?

Mr. HOLBROOK. Yes, sir. If he meets the other requirements.

Senator MALONE. What are the other requirements?

Mr. HOLBROOK. Well, the primary one is that he has to have a valid discovery, and he has to have the claim surveyed and meet all the requisite or procedure requirements for patent, which I am sure you are very familiar with, Senator.

Senator MALONE. Yes. I held a patent surveyor's license for 30 years, I guess.

Now, what is a valid discovery?

Mr. HOLBROOK. The definition, Senator, that usually appears in the cases, is that it is a showing which would induce a reasonably prudent man to invest his money in the further exploration of the property. There is no rigid, fast rule on that. It is what the ordinary prudent man would invest his money in, in further searching.

Senator MALONE. All right. Suppose he has a ledge that does not carry minerals, or minerals a very minor amount. What would not be called a commercial venture, but he has made a decision if he drops down and tunnels in lower down, he may open up a paying vein. What would that mean? Would that be a valid discovery? If he has his post up on the ledge and is tunneling into this vein or ledge at a lower level?

Mr. HOLBROOK. I assume, Senator, that he opened up the vein, or ledge, on the surface, did he?

Senator MALONE. And he might have a trace. Maybe it is not commercial.

Mr. HOLBROOK. Specifically, I think your question is answered by this: I don't think it has to be commercial to be a good discovery. Does that answer your question?

Senator MALONE. I think that is close to it. He has to be in a geologically correct area in his judgment, that he has decided to spend his money to go in and do this \$500 worth of work, and therefore he wants to patent the claim.

Mr. HOLBROOK. I think that is substantially correct. It cannot be just an odd judgment that he has individually, but if he is expressing the judgment of the ordinary prudent man, yes.

Senator MALONE. Well, the prudent men, unfortunately, are not the ones that make the discoveries.

Mr. HOLBROOK. That is quite true sometimes.

Senator MALONE. It is generally true.

Mr. HOLBROOK. But I think you appreciate that you cannot put this on an individual basis; that is, the requirement for discovery.

Senator MALONE. Well, how would you put it?

Mr. HOLBROOK. Well, I think it is the standard of what the ordinary man would do who was familiar with mining problems. Not what I would do individually. I may be very foolish in my effort.

Senator MALONE. And not what an engineer would do. Because engineers do not discover mines. They turn them down.

Mr. HOLBROOK. That is right.

Senator MALONE. And the men that discover them first are the men that have that optimism and that will go out there and live alone lots of times and do a little work until they can interest someone that will come in for greater exploration. Is that not about right?

Mr. HOLBROOK. I know that has been often the case.

Senator MALONE. Has it not been mostly the case?

Mr. HOLBROOK. I think most mines have been discovered by prospectors.

Senator MALONE. Your company does not discover mines. They are discovered by prospectors, and there are maybe a hundred or two hundred prospects before they are showing enough to bring your company in at all.

Mr. HOLBROOK. I can't take exception to that statement.

Senator MALONE. I know what I am talking about, from 30 years of hanging around this business.

Mr. HOLBROOK. That is probably true.

Senator MALONE. Now, the reason that I am very much interested in the conclusion of the Forest Service—and I have never seen anybody in the Forest Service who knew anything about mining—is that only about 2 percent of the amount located in my State of Nevada is producing minerals in commercial quantities. They seem to think that has a bearing on this bill. And only 60 percent have a valid entry.

Then, what are the other 40 percent doing there? Why do they not initiate proceedings, if they want the land?

Mr. HOLBROOK. I have not seen this report, Senator, and I scarcely feel that I am in a position to comment on it.

Senator MALONE. In Oregon there is 55 percent that they claim are not valid; an average of, say, 40 percent.

Now, there is a remedy. That is what I want you to tell me. They have a remedy now. If there is an invalid mining location, and they are doing any damage, or there is any reason to do anything about it, they have the remedy to do it. They can initiate proceedings in the Department.

Senator BIBLE. You are referring to the national forests, Senator Malone?

Senator MALONE. Yes.

Senator BIBLE. Or all public domain.

Mr. HOLBROOK. Yes; I think there is a remedy.

Senator MALONE. What is it? How do you do it? You are a lawyer.

Mr. HOLBROOK. I think the more common one is the initiation of a contest, and an administrative proceeding in the Department of the Interior.

Senator MALONE. How would that be done? You say there is a mining claim located. It is described, tied to a section corner, or filed in a county clerk's office, and you want to initiate proceedings. What do you do?

Mr. HOLBROOK. Actually, Senator, I have never handled one of those administrative proceedings, and I am not too familiar with it.

Senator MALONE. But they could initiate proceedings in the Department, itself, the Department of the Interior.

Mr. HOLBROOK. I think that is true. I have been informed that it is a slow proceeding and involved considerable expense and delay.

Senator MALONE. Well, is that not a good thing? If a man has had the initiative to go out there and locate a mining claim, and he is doing all this work yearly, and he has his plans, would you want somebody to just go out and cut him off?

Mr. HOLBROOK. I think the great bulk of cases, Senator, are those where they are not doing a hundred dollars' worth of work a year, and the Department cannot initiate any proceeding, because he is not doing a hundred dollars' worth of work. In other words, that is not a ground to contest the claim.

Senator MALONE. What is the ground?

Mr. HOLBROOK. The ground would be because there had either been abandonment or there had not been a sufficient discovery.

Senator MALONE. Well, now, you would not want to throw a man off who had a sufficient discovery, and still wanted to hold his claim, because he had been late with his work, would you, or for some other reason that you might imagine?

Mr. HOLBROOK. No; I don't believe in forfeiting a claim for any such failure. I think that would create a lot of problems, Senator. I agree with you.

Senator MALONE. All right, then. Now, you say that any American 21 years old, a citizen of the United States, can go out there and stick his stick up in the absence of work and claim the claim?

Mr. HOLBROOK. Yes, sir. You mean, he can relocate? Yes.

Senator MALONE. And the original locator is out?

Mr. HOLBROOK. Yes.

Senator MALONE. Then he has to do the work within 30 days and put up his corners; is that not right?

Mr. HOLBROOK. That is right; yes.

Senator MALONE. Now, what are you trying to get at in this bill, so that you can handle this man in a different way? What are you going to do with him?

Mr. HOLBROOK. Well, this is an in rem proceeding, Senator. It is not designed to affect the validity of the claim, but only the surface rights, other than those which may be involved in mining.

Senator MALONE. Now, are you familiar with how a miner handles his claim, when it is the only property that he has? How do you think he goes about this thing? Are you familiar with it?

Mr. HOLBROOK. I think so.

Senator MALONE. Well, what is it? How does he do it? Will he go out and live on the claim if there is water or firewood, or something?

Mr. HOLBROOK. He does many times. I think that is more the exception than the rule.

Senator MALONE. Do you think it is the exception where he has the firewood and the water?

Mr. HOLBROOK. Well, certainly there are lots of miners who reside on their claims, but I think many more do not. Often it just is not desirable living.

Senator MALONE. Is it not more the larger locator, the man who has a little money, who maybe has 30 or 40 claims, who does not do that?

Mr. HOLBROOK. Well, I think that is true. I don't think there are many problems incident to the prospector that is actually interested enough and is living right out there, if mining is his vocation.

Senator MALONE. Well, now, you have been in Nevada, have you not?

Mr. HOLBROOK. Yes, sir.

Senator MALONE. Have you ever been at Yerington, Nev.?

Mr. HOLBROOK. That is where Anaconda has this new operation.

Senator MALONE. Well, there were a lot of people there before Anaconda. I was familiar with that copper area almost 50 years before they came in, and I made a survey on three of those claims in 1920. You only hear of an area when your company or Anaconda goes in. But there are little people all over this country working this out before you come in.

It was owned by three different people. They had a Thompson smelter out there, built before the First World War. Sam Bofford, one of the best attorneys in the area, dead now, handled the suit. They had a freight rate figured out, so that it was cheaper to send the Feather River copper ore to Salt Lake City to smelt it, maybe in your smelter, than it was to send it half the distance to the Thompson smelter. That is one of the tricks of the trade. You are probably familiar with that way of doing business, are you not?

Mr. HOLBROOK. No.

Senator MALONE. Well, I am. And we were employed as engineers to work out the case. And we finally worked it out and had charts all over the office building, but in one case the outfit was broke and gone, and your outfit got the smelting after all. That broke them for a while. They went into bankruptcy.

Governor Boyle, who was governor along about the time of the First World War, took it over and tried to handle it and could not.

He was prevented by these very methods. There are a lot of ways of killing a minor off besides shooting him.

Now, finally, Judge Gill, who was a district judge for many years out there, and his crowd, took it over, and turned it over to Anaconda, and the Anaconda spent the money. They guaranteed a price for copper out there, and they are doing pretty well, I think. I hope they are.

But that is only one deposit in Lyon County around Yerington, when there are probably 400 showings, and maybe a thousand of different claims of minerals throughout Lyon County. And they are the same kind of prospectors. One fellow I knew was "Three-Finger Jack." I never knew him by any other name. He had a lot of prospects throughout the county. Now, it is the "Three-Finger Jacks" that I am interested in protecting, people that you rarely meet.

Mr. HOLBROOK. Well, Senator, I am the last person—and I am sure that is true of the American Mining Congress—to urge anything that would interfere with the development of our mineral resources. I do not think this will interfere with the development of our mineral resources.

Senator MALONE. Have you ever favored a leasing system instead of a location system? Have you ever supported the Department here in its recommendation for a leasing system?

Mr. HOLBROOK. I most vigorously opposed the leasing system. And that is one thing that bothers me about this amendment that we are talking about, that lifts certain lands out from under the mining laws.

Senator MALONE. You are talking about the thing that Senator Watkins figures would protect the State?

Mr. HOLBROOK. Well, I do not think the Senator has committed himself on it in any way.

Senator WATKINS. The record will show that I sent in the matter for study. It was an amendment that had been suggested, and I sent it in for study. And that is why Senator Anderson, the chairman, called attention to it to Mr. Holbrook. I had intended to examine Mr. Holbrook on it later in the day.

Senator MALONE. I have just looked at it, Senator, and as I get it, it would protect the State where there is no survey, and naturally, when you stick up a stake you are not familiar with how the subdivision will later work out. If it were later allocated to the State under the school land system, or any other method, the State could take it over, but the man who had done the work there on the claim would have the first option to lease it.

Senator WATKINS. That would operate to give him a preference.

Senator MALONE. Now, that is a little new as an approach to a leasing system, and if the States are for it, I do not know why they oppose it for the Government. I do not think my State is for it.

Senator WATKINS. Does your State have the same problem we have? We have many millions of acres of unsurveyed lands in Utah, and the State has not been able to get it started as to the sections given it under the enabling act.

Senator MALONE. We have a lot of unsurveyed lands. But I was going to outline the situation on unsurveyed lands. I have patented lands on unsurveyed areas. You know that can be done. A mineral surveyor is entitled to set up a mineral monument if it is too far to tie

to a section corner. If it is within reason, he ties it to a section corner. If not, he can tie it to a mineral monument and find the mineral monument located as near as he can to natural objects, and it is just as effective and just as legal as buying a ranch in Ohio with legal subdivisions in it. You understand?

Mr. HOLBROOK. Yes.

Senator MALONE. Now, to go into it a little deeper, just why a State would want to cloud that title by being able to claim it if it happened to fall in a section, I would not know, because the taxes are paid to the State, if any. And they can value it and tax it, just the same as any other property. And if it makes any money, and the State does not get it, the Government will anyway, it looks like. They get the income, do they not? The income tax? If it makes any money?

Mr. HOLBROOK. It would be subject to State income tax; yes, sir.

Senator MALONE. Now, you would not want to displace a man on unsurveyed ground that had located a mining claim and was doing his work out there and was working towards a patent, would you?

Senator WATKINS. Mr. Holbrook is arguing against the proposal, Senator. He is arguing with you.

Senator MALONE. No, no. I am clear beyond that. I have dismissed that, now. I have expressed my opinion about it. But I want to get him back on this idea of what he wants more Federal legislation for.

Do you want to get this man off for some reason, or what?

Mr. HOLBROOK. Senator, I think you have heard my observations for some years in the past with respect to the differences between particularly the Forest Service and other agencies and the rights asserted by a mining claimant. I think if we can get these issues that have been so controversial in the past resolved, without interfering materially with mining locations and development of mines, it will actually be of benefit to the mining industry, the little as well as the large.

Senator MALONE. Now, who is raising all this trouble? I have not heard of very much trouble except when I am in Washington. We get to sitting around in these soft cushions in air-conditioned rooms with our rents paid, and everything, and we cook up a lot of troubles for ourselves. But I do not hear any out in Nevada.

Mr. HOLBROOK. Well, we hear some in Utah.

Senator MALONE. What do they do in Utah? What are they trying to do over there that they cannot do?

Mr. HOLBROOK. And I have talked to a number of members of Congress who have given me the impression that this area of conflict should be resolved.

Senator MALONE. What is the area of conflict? Could you define it for the record? Is it between two departments, or is it between the prospector and the department?

Mr. HOLBROOK. No; the real area of conflict, Senator, has resulted from people locating mining claims for nonmining purposes.

Senator MALONE. Who are these people? And what remedy do you have now? What remedy do you have now as to that?

Mr. HOLBROOK. I am informed that that is done to acquire timber values in certain cases.

Senator MALONE. You mean to tell me that a prospector can go out there and locate a timber claim with no mineral in sight, and you cannot do anything about it?

Mr. HOLBROOK. No; I don't think he can make a valid claim without any mineral in sight. If there is some mineral, as long as he has an opportunity to develop his mineral and carry on his mining operations, I don't think he should lock up the other natural resources.

Senator MALONE. This is a claim 1,600 long and 1,500 feet wide, and he has locked up the resources?

Mr. HOLBROOK. You have referred to a lode claim. Of course, as you know, an association placer can embrace 160 acres, and there is no limit as to the number of claims that any one individual can locate.

Senator MALONE. Well, now, are you complaining about people who are mining and who have mineral claims, or are you complaining about people that do not have any showing of mineral?

Mr. HOLBROOK. I am complaining primarily with respect to the latter class. But I am informed, and I do not speak from first knowledge—that in some cases there are locations where there is an adequate discovery to support the location, but it is very obvious that it was not made for mining purposes. It was for some other purpose.

Senator MALONE. You have no remedy against a man like that. Does he have to do his work every year?

Mr. HOLBROOK. Yes. Or the ground would be open to relocation. He would not, as against any Government department.

Senator MALONE. Now, what are you complaining about? That he sells the timber, or rents it to grazing, or something?

Mr. HOLBROOK. Well, Senator, personally, I am not complaining, as I am sure you understand.

Senator MALONE. Yes; you must be. You are for this bill. Now, tell us why. I am trying to find out why. You are representing a great organization. I do not think you are representing any other one right at the moment.

Mr. HOLBROOK. That is right. I represent the American Mining Congress. I think it is a very important organization.

Senator MALONE. We have a right here to know why this mining congress comes up for this bill.

Mr. HOLBROOK. The reason it comes up is that we feel this bill will resolve the difficulties we have had, without materially interfering with mining operations. Any number of bills, Senator, that have been introduced to resolve this problem we think would create insurmountable problems.

Senator MALONE. They were not enacted, were they?

Mr. HOLBROOK. No.

Senator MALONE. You see, this committee has to pass on it.

Mr. HOLBROOK. Yes.

Senator MALONE. And I have a sort of old fashioned idea that if we do not vote for a bill it does not become public law. I may be a little old fashioned, now, with all the propaganda that you have, when it comes to the point that you are going to do this or do that. I hear that when I am out in Nevada. But I always try to listen to the evidence after I get back, and I go home mostly to try to get my own feet on the ground. You lose perspective here in Washington.

How long since you have been home?

Mr. HOLBROOK. Well, I left home Monday night.

Senator MALONE. Where do you live?

Mr. HOLBROOK. Salt Lake City.

Senator MALONE. Well, 3 months is the limit here without going back to talk to some folks who make it the hard way. So maybe you are oriented again. Did you see some of the folks out on the claims while you were there?

Senator BIBLE. You are a resident of Salt Lake City, are you not?

Mr. HOLBROOK. Yes.

Senator WATKINS. You have never lived in Washington, have you, Mr. Holbrook?

Mr. HOLBROOK. No; I get here very seldom.

Senator MALONE. Theoretically, a lot of people do not live in Washington, but they are here too long for their own good.

Now, I want to get back again to why you think these people ought to be put off of these claims and why you cannot do it as to purposes other than mining. Are you talking about Utah, as to these timber claims?

Mr. HOLBROOK. We do not have a great deal of timber in Utah, Senator.

Senator MALONE. We have 5 million acres of forest reserves out there in Nevada. And there is not over 200,000 acres that has trees on it that I can't stand flatfooted and jump over, as old as I am. Are they complaining about that kind of ground?

Mr. HOLBROOK. Well, there is a principle involved in it, I think, no matter where you are. I do not think anybody should enter land under the mining laws for nonmining purposes.

Senator MALONE. Well, I do not either. But I just asked you what the remedy was awhile ago, and you told me they could initiate proceedings, which I know they can, if the Department is on its toes and wants to do it. Now, you do not want to keep another man from locating it if he finds mineral, do you?

Mr. HOLBROOK. No; and this bill would not stop a man from locating it.

Senator MALONE. What the bill does, very frankly, is to give another step forward to the departments, here, none of whom know a mining claim from a farm barn, and they go in, and their objective is to get the man off. Our objective is to keep him there, if he is doing his assessment work. If your opinion is that the present law does not require enough assessment work—and I asked you that—then we should increase the requirement. We should discuss that.

Mr. HOLBROOK. I do not think there is anything in this bill, Senator, that permits any department to interfere with any mining operation.

Senator MALONE. Just what is there in the bill, then, that you want? I am talking about a prospector that is doing his assessment work and has a valid showing, has made a valid location. What is there here that will get him off, that will not now? How could you handle him?

Mr. HOLBROOK. I don't think there is anything designed particularly toward that situation, and I don't think this proceeding will be directed particularly toward that person.

Senator MALONE. It can be, can it not? They can judge.

Mr. HOLBROOK. No; I don't think there is anything in this proceeding that would remove him from the surface.

Senator MALONE. Well, there is something in the proceeding to let you dispose of the surface, is there not?

Mr. HOLBROOK. There is something in the proceeding that will let the Federal Government dispose of the timber and the forage.

Senator MALONE. And if it does interfere with him, he has his recourse; it that it?

Mr. HOLBROOK. It cannot interfere with his operation.

Senator MALONE. Suppose it does, and they say it does not, and he says it does, and then what?

Mr. HOLBROOK. He has his recourse.

Senator MALONE. Like you do now?

Mr. HOLBROOK. Sure.

Senator MALONE. Well, it would be easier, would it not, for the Government to take the recourse than an individual out there, that does not have any money to go to court?

Mr. HOLBROOK. This is directed, Senator, to a different situation than even contests. Now, contests would evict a man entirely from his claim.

Senator MALONE. Does this not do away entirely with the sandstone, gravel, pumice, pumicite, cinders, clay, and pumice stone?

Mr. HOLBROOK. Yes; it does.

Senator MALONE. It cuts all that out.

Mr. HOLBROOK. Yes; it does, Senator. I was speaking of the overall principle that you had been discussing with me, as to the minerals that can still be located under the mining law.

Senator MALONE. Pumicite is building material, is it not?

Mr. HOLBROOK. Well, I thought it was primarily an abrasive.

Senator MALONE. Yes; but do they not use it, and cinders and clay and pumice, for blocks of some kinds of buildings?

Mr. HOLBROOK. I think they do, yes. I think so. That is right.

Senator MALONE. But you would cut all that out. You would not have anything to do with that.

Mr. HOLBROOK. You could not locate for those minerals under the mining law.

Senator MALONE. Under the amendment?

Mr. HOLBROOK. That is right.

Senator MALONE. But you can now?

Mr. HOLBROOK. Yes, sir.

Senator MALONE. Well, now, why do you want to cut them out?

Mr. HOLBROOK. They are not totally cut out, Senator. Pumice, more than two inches in diameter, in one dimension, would not be excluded. Clays which have peculiar properties would not be excluded.

Senator MALONE. Well, now, pumice that is in place—you are talking about a gravel, or an aggregate?

Mr. HOLBROOK. Well, I understand that pumice occurs very generally. I am not a geologist. You probably know much more about that than I do. But over great areas—it is a volcanic ejector, so I am told, and it may be small, and some of it occurs in larger blocks. And that is not excluded from location under the mining laws.

Senator MALONE. But you would be excluded from taking this aggregate of pumice?

Mr. HOLBROOK. If it is less than 2 inches in 1 dimension, you would.

Senator MALONE. Well, now, wherever you find this, is it not a good deal like any other rock, that if you dig a little bit you are likely to find it in place? You know, sometimes there is a flow of this. There is a lava flow. Some of it is in place, and some of it over a few million years has disintegrated. It is like your placer. If you follow

it far enough, you will find a ledge sometimes. You do not always find it. It is generally there someplace.

Mr. HOLBROOK. Wherever you find pumice of those dimensions, it would still be locatable under the mining laws.

Senator MALONE. Then you would have to dig down through it or go back to where you find the pumice in place, or in chunks larger than 2 inches in diameter, in order to locate it. Then you could locate it.

Mr. HOLBROOK. That is right. Senator, it has been very carefully reviewed, with the thought that it would not materially interfere with mining operations.

Senator MALONE. It would interfere with that kind of a mining operation, would it not, right on the face of it?

Mr. HOLBROOK. A very fine aggregate, yes. But I do not think that is used extensively.

Senator MALONE. Well, I think it is. I think if you were to go down around Las Vegas and places where there is lots of building going on, you would find out about it. The gravel and the stone, and so on.

Now, how would you get this gravel and stone? Would you write a letter to the Secretary of Interior and lease it from him?

Mr. HOLBROOK. This act expressly provides for an amendment to the Materials Disposal Act to bring it under the provisions of that act that make it subject to sale.

Senator MALONE. What do you mean, sale? How would they sell it? At so much a cubic yard?

Mr. HOLBROOK. I do not know what the terms of sale are.

Senator MALONE. It may be that something could be worked out. But what you are doing in this act is upsetting the whole situation insofar as aggregate is concerned out on the public lands. And if you have a provision here, so that you can lease a pit, or lease a piece of ground that has this material in it, that is one step toward the leasing system that the Department of Interior has advised that they want for 22 years. They want it under a leasing system. I guess you know that.

Mr. HOLBROOK. Well, you know that I am opposed to a leasing system.

Senator MALONE. I did not know that. This is a step, in my opinion, toward the leasing act that they have always wanted. And you are for this?

Mr. HOLBROOK. Well, that was not my thought, Senator.

Senator MALONE. Another thing is that you have not convinced me by a good long ways—I will take a look at the record—that you do not have an adequate remedy now. The only thing you have convinced me of is that now the Department has to file the charges, whereas the Department can go out there and order him off, he has to file a case in court. And there are not many prospectors that locate first. Some of these prospects turn into small producers, and a hundred small producers may find their way to a mine that you people would be interested in.

Mr. HOLBROOK. My belief is that there is nothing in this bill, or any other bill, that would materially interfere with our mining laws. And I think the Interior Department would be in a better position to discuss the problems of available remedies than I am.

Senator MALONE. Well, I think that is all right, Mr. Chairman.

Senator BIBLE. We can rely on them, Senator Malone, to bring up that point.

Senator MALONE. You cannot rely on them but you can question them.

Mr. HOLBROOK. All right, sir. We will be very happy to have you question them.

Senator MALONE. You have taken this up with every mining association in the United States. Why are you so interested in it? What do you want to do to these prospectors? What kind of a remedy do you want against them?

Senator BIBLE. Senator Watkins?

Senator WATKINS. As a matter of fact, the American Mining Congress did not propose this bill at all, in the first place, did it?

Mr. HOLBROOK. No.

Senator MALONE. If you want to gather some correspondence with the mining associations of the country, I will do that for you.

Senator WATKINS. Well, I am asking the questions, Senator.

Mr. HOLBROOK. It is true that this bill has been discussed, I think, with representatives of all the State mining associations.

Senator MALONE. By your association?

Mr. HOLBROOK. By the State mining associations and by the American Mining Congress.

Senator MALONE. Now, maybe it is a good thing. Maybe it is a good thing for you to do that. But I just want to establish in the record that you have done that.

Mr. HOLBROOK. I think it is imperative that we do that, Senator. I do not want to be a party to any proposed changes in the mining law without having the views of the industry and the people who are working on these problems.

Senator MALONE. You have even got the women working on it, and they are not very good miners.

Mr. HOLBROOK. Well, I did not know that.

Senator WATKINS. For the record, I started to question the witness, and for the record, I want to say that I am one of the sponsors of the bill. This problem was discussed by me with various people prior to any discussion whatsoever with the mining people. Now, there have been abuses of this mining law on the national forests of the country. That has been called to my attention at numerous times, long before this bill was ever brought in. And we have had too many people that used the mining law to get a grazing location, or to get a summer home, or something else, or to get timber off the national forest. If they could find sand and gravel, and find some of these other materials mentioned there, or find another mineral that would give them enough of a trace, it would give them an opportunity to go on and file as many claims as they wanted to file. And there they were out in the middle of a national forest. It created all kinds of difficulty.

That is the reason I became interested in this problem. The mining people did not bring it to me, I will say very frankly.

Mr. HOLBROOK. We think that practice has been inimical to the mining industry.

Senator WATKINS. And the mining people, naturally, were consulted before we proceed with a bill that would restrict to some extent the operations on national forests or on other public lands.

Now, you state that you have discussed this with the various State mining associations.

Mr. HOLBROOK. Yes, sir.

Senator WATKINS. And you have discussed it also with the representatives of the departments; have you not?

Mr. HOLBROOK. Yes, sir.

Senator WATKINS. I do not know as to that, but I know it has been discussed generally ever since I have been in Congress here. They have had discussions, more or less, on this problem. Every time they have had a mining bill discussed, it has come up to some extent. And it has been an effort to get together with the departments, the mining people, and all the people concerned, to see if we could not work out some kind of a bill that would furnish a remedy against these people who misuse the mining law and make these locations.

Mr. HOLBROOK. Yes, sir. I do not purport to speak, Senator, for the representatives of the State mining associations, I speak for the Mining Congress. But the congress was very interested in getting just as accurate as possible a cross section of the problem and the reaction among the various sections of the mining industry as it could.

Senator WATKINS. Well, this practice has been going on, and it has given the mining industry a lot of difficulty, has it not?

Mr. HOLBROOK. We think it has created problems.

Senator WATKINS. That is a very diplomatic way of answering my question.

I do not have anything further.

Senator MALONE. Well, I ask you, then: What is the remedy in a mining location difficulty at the present time.

Mr. HOLBROOK. Did you direct that to me, Senator?

Senator MALONE. The same as I did before, just to clear the record.

Mr. HOLBROOK. As I stated before, it is an administrative proceeding, and I think maybe the Bureau of Land Management, or the department can speak better. But I understand it would be a contest, or I am quite sure a proceeding could be initiated in a court of law.

I recall that the Department of Agriculture instituted such a proceeding in California about a year ago. I did not have an opportunity to follow the procedure, but I saw a comment on it. That was in a court of law. I think that was in a Federal Court.

Senator MALONE. And they have to file against this locator in a court of law?

Mr. HOLBROOK. That is one remedy. Another and totally different remedy is an administrative proceeding called a contest in the Department of the Interior.

Senator MALONE. Who decides that; the Secretary?

Mr. HOLBROOK. It would ultimately be decided by the Secretary if it were carried up.

Senator MALONE. Is it appealable to a court after his decision?

Mr. HOLBROOK. Well, it would be on any points of law. I am not too familiar, as I say, Senator, with that.

Senator MALONE. Now, what is the remedy if this bill passes. Then the shoe is on the other foot. They allege that he has no location, and he has to take action; is that right?

Mr. HOLBROOK. I would like to make that clear. This is a different procedure.

Senator MALONE. What is the procedure?

Mr. HOLBROOK. Here is a copy, Senator. The procedure in section 5 is called an in rem proceeding.

Senator MALONE. How do you spell that?

Mr. HOLBROOK. I-n r-e-m; which in effect means a proceeding against the land; and the effect of the proceeding is that if the mining locator does not come in and set up his rights, or if he loses, then his claim would be subject to the limitations and restrictions provided in the act. He would be in precisely the same status as a locator of a claim after this act is passed, as far as new locations are concerned.

Senator MALONE. Then he is subject to the Secretary of the Interior requesting publication of notice to mining claimants. And then they must come in. The claimants are already there. They must come in and file with the Secretary.

Mr. HOLBROOK. They file in the office where the notice was published a verified statement setting up their rights. Now, if there is no dispute as to their rights, they have all the rights they have had before.

Senator MALONE. If there is a dispute?

Mr. HOLBROOK. Then it will be set down for hearing.

Senator MALONE. And who decides it?

Mr. HOLBROOK. It is an administrative proceeding, again, in the Department of Interior.

Senator MALONE. And the Department of Interior would make the decisions?

Mr. HOLBROOK. That is right.

Senator MALONE. That means that the Bureau of Land Management, the local office in the State, would make the decision for the Secretary. And the man is out.

Mr. HOLBROOK. Then there would be a right of appeal to the Director of the Bureau and to the Secretary of Interior, too.

Now, if he did not come in, it is not a question of losing his mining claim. He can still carry on his mining operations. And nothing can be done that interferes with his mining operations under that procedure.

Senator MALONE. Even if he does not come in and file?

Mr. HOLBROOK. If he does not come in, he still has all the surface rights that he needs to carry on his mining operation. But the Government would have the right to manage and dispose of the timber, to manage and dispose of the forage, and to regulate other surface resources. And that is the status that claims which were located after this act becomes effective would have.

Senator MALONE. That are located after the act?

Mr. HOLBROOK. Yes. In other words, it does impose some limitations. But I do not think they are such as to affect the mining. They are aimed at the fellow who makes the location for nonmining purposes.

Senator MALONE. Now, your chief claim is that it interferes with the Forest Service, and I understand the Senator from Utah has that same idea. Is that it?

Senator WATKINS. Not only the forests, Senator, but it is other public lands as well.

Senator MALONE. Well, most of the forests are in the Forest Service, or in State control, somewhere.

Senator WATKINS. Not national forests. They are not under the control of the States.

Senator MALONE. National forests are under the control of the Forest Service.

Senator WATKINS. That is right. That is the only kind this law affects.

Senator MALONE. Now, would you have objection in case this bill was found to have some merit in the forests—of course, there is no timber on the Forest Service areas in Nevada, so I would not know about that. But if you find that that is a valid thing, and it looked like a movement along that line would not disturb the prospector too much—you know, you can harass a man to death. If you have 5 or 6 people working for the Government who come in, it is not a very congenial companionship. Would you have any objection to amending this bill to confine it to Forest Service lands?

Mr. HOLBROOK. Senator, if it is bad in principle to make a location under the mining law in the national forests, for nonmining purposes, it is equally bad outside of the national forests.

Senator MALONE. I have asked you about that. What it does, from your own testimony, is that it puts the shoe on the other foot. You can run him off and make him sue you if this passes, and the way it is now you have to sue him.

Mr. HOLBROOK. As a matter of fact, I think it is very undesirable, and as I stated in my preliminary comments, to have two sets of rules. I think the miner is much better off if he knows what his rights are under his mining location, no matter where he is.

Senator MALONE. Well, I would like to preserve for him some of these rights. And I am not talking about your company. You get along all right. I am talking about the fellow who does not have a fund of money back of him.

Mr. HOLBROOK. I do not want to take one single right away from the most humble prospector which would interfere in any way with his mining operation. And if I have, then I have done it without knowledge, Senator.

Senator MALONE. I think this is a start, a foot in the door, for the very thing that the Secretary of Interior has recommended for 20 years. And that is that it all eventually will go under a leasing system.

Mr. HOLBROOK. Well, it would be a means of avoiding the basis of friction, and it would help to eliminate any further urge for such a policy.

Senator MALONE. This committee has so far taken care of that.

Mr. HOLBROOK. Yes, sir.

Senator MALONE. And we can do it. And I have seen these bills come before. If you can do it piecemeal, I have seen these Government departments operate. In 2 or 3 years, they come with something else. It is just one thing after another. Finally, they get what they go after, because they have got money to operate on, and they are persistent, and they want to do everything from Washington, D. C., nothing from Carson City, Nev., or Salt Lake City, Utah.

Mr. HOLBROOK. I appreciate that some years back there was considerable pressure by advocates of a leasing system. I don't think that is true now.

Senator MALONE. It is still there, by the same people.

Mr. HOLBROOK. That is not my understanding, and I have felt that this may be a means of stabilizing this situation.

Senator MALONE. That is exactly what has been sent out to these mining associations, that to keep from getting something worse, you have to do this. I have letters from most of them. What I want to say is this: There is some advantage in being a little older than others. There are few advantages, but there are some. That is, you have seen all these jokers come and go. In 1934, there was a Taylor Grazing Act. I did everything I could to avoid it in Nevada. I was State engineer. I could not do it. Now it is there, and everybody out in our State are crying their eyes out because they have got it. Therefore, they have continued to pinch down the grazing, on the theory that they are developing grass. Now there is a shortage of rain out there this year, and if they ever developed any grass, it is not evident.

The people that were grazing that land for 75 years have nothing they can do about it. They have to get these leases for a 3-year period, or whatever period they have a mind to give it to them for. And they always can cut them down. And when you cut a man beyond his carrying capacity on the ranches, his income is cut without cutting his investment. And they are all going right out the little end of the horn.

Now, the same argument was made for that—I was right here, not on this committee, of course, not in Congress—in 1934. I was right here in the Senate Office Building talking about this thing. I talked exactly like you are talking. "This is going to be for the benefit of the cattlemen and sheepmen."

Well, get some of them in here now and see what happened to them. You can get the miners in here about 5 years from now and see what you are doing to them.

That is all, Mr. Chairman.

Senator BIBLE. Mr. Holbrook, I am interested in some language here on page 3, that is taken from the bill, where you say, referring to (c) 1, on page 3:

to prohibit the use of any hereafter located unpatented mining claim for any purpose other than prospecting, mining, processing and related activities.

Mr. HOLBROOK. Yes.

Senator BIBLE. Now, is it your understanding under that language that if this were to be adopted one could locate a millsite in accordance with the regular mining laws of the Western States?

Mr. HOLBROOK. Oh, yes, sir.

Senator BIBLE. And a tunnel site?

Mr. HOLBROOK. Yes, sir.

Senator BIBLE. You could locate those without any difficulty?

Mr. HOLBROOK. Oh, yes.

Senator BIBLE. Now, as I understand it, section 5 goes only to claims that have been heretofore located. Is that a correct statement?

Mr. HOLBROOK. That is correct. You see, the two fit together. The other provisions of the act relate to claims located after enactment of the bill, and that particular section relates to those located before, and to meet problems incident to such locations.

Senator BIBLE. One thing that bothers me that Senator Malone has touched on is the fact that the forum in which the cause is heard and the determination made is the very same department that institutes

the adverse proceedings. As a practicing lawyer in Reno, I have had enough experience with the Bureau of Land Management to know that you hear an examining officer and then you appeal to the director, who is still under the same department as is the examiner who made the original decision. If you are not satisfied with that, you appeal to the Secretary of Interior and all administrative officers still within the same department. Now, is that a good thing for the prospector out in your State of Utah, if he is attempted to be "adversed out"? Would it be better if they were required to go to court?

Mr. HOLBROOK. Well, you see, Senator, we are talking now under section 5.

Senator BIBLE. Limiting my questions only to section 5.

Mr. HOLBROOK. Yes. We are just talking about the surface rights. In other words, if he does not appear in that proceeding, he would not be in any different position than the mining claimant who made a new location then next day after this act was passed.

Senator BIBLE. I have only heard the examination of section 5, and I am wondering if that is clearly spelled out.

Mr. HOLBROOK. Yes, I think so.

Senator BIBLE. You think that is all they can do in this adverse proceeding, take the prospector's surface rights—only his surface rights—from him, even though he does not have a valid discovery?

Mr. HOLBROOK. I think it would be very unwise, Senator, if a man did not have any discovery, to contest. I would certainly advise my client not to. I would be disposed to recommend that he file a waiver of any rights. Because I would not want to place in issue the question of discovery. If I lost solely on the grounds that I did not have an adequate discovery, I have made a record that would be available to others.

Senator BIBLE. Of course, I think you and I are both familiar enough with the mining law to know that there is a great divergence of opinion as to what is a valid discovery.

Mr. HOLBROOK. That is correct. And if there was any question of doubt, I would recommend that he not place that matter in issue. Because I do not think he would be hurt in any way; as I do not think people who locate claims in the future will be hurt. He has the right to use the surface for every use he needs to carry on his mining operation. And when he gets patent, he gets an unlimited title.

Senator BIBLE. I understand that. But I am talking about the man who is holding an open location, as so many thousands of prospectors do throughout the West. And of course, I am somewhat intrigued with the burden that it puts upon the small prospector to attempt to defend himself before the administrative officer in the adverse proceeding under section 5. It is certainly going to cost him money, is it not?

Mr. HOLBROOK. If he comes in and defends it. Of course, the only purpose of him defending it would be to claim some resource in addition to those he claims for mining.

Senator BIBLE. I understand that. That all costs him money, though, does it not? Because he will certainly seek the advice of some lawyer in Utah, or Nevada, or California.

Mr. HOLBROOK. Oh, yes. Of course, he has that same problem now under Public Law 585. In other words, this proceeding is identical

to that one; only in that proceeding it was a matter of conflict between Leasing Act minerals and minerals locatable under the Mining Law. This proceeding is identical with the one that was passed last year by Congress in that respect, except where the changes have been necessary to make it applicable to the situation.

Senator BIBLE. And it is your opinion that section 5 is clearly enough spelled out that the only adverse rights that are affected are surface rights, insofar as an open location is concerned?

Mr. HOLBROOK. Yes. Except as to the very point you raised, that the question of discovery may be placed in issue, and its indirect consequences. And there is no way to avoid that, Senator.

Senator BIBLE. It seems to me it is in that very field that you might be getting into considerable difficulty. I mean as to whether the prospector thinks he has a valid discovery and the hearing officer thinks he does not.

Mr. HOLBROOK. O. K. If that is the issue, I would recommend to my client that he not contest it.

Senator BIBLE. Well, sir, if he does not contest it, he would lose the claim.

Mr. HOLBROOK. No; he loses nothing.

Senator BIBLE. Except the surface rights.

Mr. HOLBROOK. Except the rights which will not affect his mining operation. He has all of the rights he needs to carry on his mining operation.

Senator BIBLE. I understand what you mean.

Senator MALONE. Mr. Chairman, as I understand it, under this mining bill they must file with the secretary any claims that they have now, or at least, if they want to have the protection the bill affords, they should, and in future they would, file with the Government, as well as the county recorder.

Mr. HOLBROOK. No, Senator. That is one of the very things that we tried our best to stay away from, and I hope will be accomplished by this bill. I think that is an undesirable practice, that you mentioned.

Senator MALONE. What does that section 5 do? Does that not ask them to come in and protect themselves?

Mr. HOLBROOK. Section 5 provides that if a proceeding is initiated by a department, then they have to come in and set up the basis of their claim. Now, what I thought you directed your comments to was the necessity of filing a certificate of location or a notice of location in the Bureau of Land Management Office.

Senator MALONE. I did.

Mr. HOLBROOK. And this stays entirely away from that. I have always been opposed to it, Senator.

Senator MALONE. I am glad that you are.

Now, you say that if you had a client and he did not have a valid discovery, meaning a mineral that had some showing, that had some indication of following a vein or some other valid discovery, that would turn out to be profitable, you would advise him just not to make a case out of it?

Mr. HOLBROOK. You see, Senator, the fundamental difference here: If the department initiates a contest, all they can do is determine whether my claim is valid or not. And if I lose, I am completely out.

I haven't anything. I have lost everything. And I have got to come in and appear. I cannot do anything else. But in this kind of a remedy, all I need to do is sit back and not spend a dime. I do not have to appear. Or, I can file a waiver. I can do either one. And my mineral rights will not be affected.

Now, you see, that is greatly to the interest of the mining industry, as compared to the old contest proceeding.

Senator MALONE. My question goes directly to the point of what is a valid discovery. If he is brought in and he refuses to file any waiver, and he says he has a valid discovery, how would you prove that he does not have a valid discovery?

Mr. HOLBROOK. I think in the ordinary process of any proceeding, no one is required to prove a negative. The burden would be the mining claimant to prove that he had a valid location, and one of the requisites would be discovery.

Senator MALONE. Do you have any idea that there is always a mineral showing on any discovery that is ever located and later turns into a good prospect?

Mr. HOLBROOK. No.

Senator MALONE. Then, if you go right out there on a ledge and the geological setup is right, according to what this fellow thinks—maybe he is a practical geologist, or maybe not at all, but he thinks if he digs on this thing he will find something. If he has not yet found anything, he can be ousted, can he not, under this law?

Mr. HOLBROOK. Under this law?

Senator MALONE. Yes.

Mr. HOLBROOK. If he has not found anything?

Senator MALONE. If he does not have a showing, yes.

Mr. HOLBROOK. No, sir. There isn't a think in this law that will permit them to oust him. But if they initiate a contest, and he loses, he is through.

Senator WATKINS. You mean under the regular mining law?

Mr. HOLBROOK. That is right. Now, that is why, Senator, it is greatly to the interest of the humblest mining locator—

Senator MALONE. Why don't you use the present mining act, then? I have never known anybody to lose out on a location, and I do not think he would lose. I think you are going to have to take him to court.

Mr. HOLBROOK. Oh, I think there are lots of cases where a man has lost on contests. I think there were great areas cleared up in the region of the Hoover Dam and in the region of the Shasta Dam. I think that remedy has been used rather extensively.

Senator MALONE. That is right, and we all recognize that. And under the mining law you have all the leeway that you need. Now, if he is in there locating after we build Boulder Dam—which was obvious to some of them; I did not pay any attention to it, because I knew it would come to court—but if he had a location before the appropriation was made, and he had any showing, he was paid for it.

Mr. HOLBROOK. Oh, yes. But I am talking about the cases where he could not make a showing.

Senator MALONE. Then he is out, and should be.

Now, I want to ask you: By the time a man goes to patent, which may take 5 or 10 years, or more, if he does not have the facilities to

work it as fast as he wants to, and does not see fit to turn it over to some company that has the money, but wants to make money himself—I know prospectors that will go broke because they will not give up control if they think they have a good prospect. Now, under this system, before he could patent it, they would have it denuded of everything by then, if they wanted to sell the timber, and he would not get anything anyway, would he, by that time? If they could come in and do anything on it they wanted to do, they could do it while he is doing his mining and accumulating enough to work to patent.

Mr. HOLBROOK. Well, I have always thought, Senator, the mining laws were designed to permit the discovery and the development of minerals, and there is nothing in this law, as I see it, that would interfere with that. He could still go ahead with that. They cannot take his minerals off, and they cannot interfere with it.

Senator MALONE. They could do plenty of interference, but you said unlimited title, and made a point of that; so that they could have it all denuded of everything by the time he got to that point.

Mr. HOLBROOK. They could take off all the merchantable timber.

Senator MALONE. Of course they could. That is the point I wanted to make.

Now, you are kind enough to say it he got title to it under a patent, then he could have whatever is on it. Is that true?

Mr. HOLBROOK. Yes.

Senator MALONE. Now, then, let me ask you another question.

Senator WATKINS. Would it be after this bill is passed?

Mr. HOLBROOK. Yes.

Senator MALONE. We have always figured—and it is the only thing a man without money can do in this country now on public lands—that when he located a claim and kept up his assessment work, he has the same right, as long as he does his assessment work and is in good standing. Is that true?

Mr. HOLBROOK. I think that is true, Senator. That would not be true under this bill. I am assuming that he had a valid mining location, as I think you are.

Senator MALONE. I am talking about a fellow who goes out there and sticks a stick down, puts a little tobacco can there with a note in it. He does not have much with him, and he does not have his attorney with him, or his engineer, and if he did have, he could not pay them. What he has is a little piece of note paper he tears out of a little notebook or a tobacco can, and he builds a monument and puts it under the top rock, or puts down a stake and puts it in the fork of a stake. That is the kind of a guy I am talking about. He has 30 days to set the corner of this claim after he does that; does he not? And then he has a certain length of time to do his work. At the present time, if he does not have discovery, it is up to you to prove he has not. Is that not it?

Mr. HOLBROOK. No, sir.

Senator MALONE. Well, let us go through that again.

Mr. HOLBROOK. The burden is on the locator in every case when an issue is raised to prove that he has complied with the mining law prerequisites for a claim, and the first prerequisite is that he has a valid discovery.

Senator MALONE. What is a valid discovery? You are a lawyer. It would be interesting to a lot of us to know just what you think a valid discovery is.

Senator BIBLE. Did he not testify to that once?

Senator MALONE. I would like to hear it again.

Mr. HOLBROOK. Well, it is such a showing as would induce a reasonable prudent man to expend his money and his effort in the hopes of developing a mine.

Senator MALONE. Whose definition is it?

Mr. HOLBROOK. That is a definition, Senator, that is written into court decision. It is not a matter of statutory law.

Senator MALONE. Very good. Could it then be interpreted as a location that he would have a reasonable chance of hitting ore in if he drives his tunnel, or drives his shaft?

Mr. HOLBROOK. There is another rule, Senator, superimposed on that, that as long as I am in possession of a claim, diligently working it—and I mean physical possession, I would say at least 5 days a week and 8 hours a day—I may hold it without a discovery. But if I haven't got a discovery, and I quit for even a short interval, I think you can go in and relocate my claim.

Senator MALONE. What is a discovery? Is it defined?—now you are a lawyer, and I want to get this in the record—that he has to have a mineral showing in his little hole where he has done this work: assessment work?

Mr. HOLBROOK. It need not be commercial ore.

Senator MALONE. But does he have to have an assay?

Mr. HOLBROOK. I wouldn't say that is absolutely necessary, under the most recent interpretations, if he has a formation that has been productive in the area. Although you are now in a field of great controversy, Senator.

Senator MALONE. Well, there is just where I want to stay. And I want you to stay there, too. And I do not want some joker from the Federal Government that can go out there, that does not know anything about mining at all, to say, "You have no showing. Where are your assays?" And he is out unless he goes to court.

Mr. HOLBROOK. This bill makes no change in that.

Senator MALONE. You just cited one we passed last year, and I was for it. The year before, I think, when it was first passed, I was chairman of the committee. Something had to be done to coordinate the placer locations with the lode locations on account of various developments. Now, that was done very reluctantly, because we thought it was necessary. And I think the record will show we did not do this so that you will get a foot in the door. You have done it to get a further foot in the door. You say it is similar to that. I say it is not similar to it, simply because it was necessary in this uranium mining, and in oil and gas locations, which covered a good part of it; and so that the uranium miners could go in, we modified the Leasing Act to that extent and dovetailed those locations so that the prior locator, whether he was oil and gas or uranium, could have the right-of-way, and both of them could work the claim. But we did not say any Government department could go in there and do anything about it.

Mr. HOLBROOK. I believe, Senator, I said the proceeding was similar.

Senator MALONE. That is right. And that is exactly what you are going to say in about a year, in coming in with another step. The proceeding is similar.

Now, they have been doing that for 22 years, and I have appeared before committees before becoming a member of the committee. And that is exactly what we want to protect against, the taking up like a log hook, just taking up the slack each time, and just wearing them down.

Senator BIBLE. Is there anything further, Senator Malone?

Senator MALONE. Yes. I had another question to ask.

Now, is it not customary, when you have a discovery, and you actually think that you are going in to spend some money, on something that may develop into a real mine, that you make protective locations around this discovery? Some of them may be where you use the ground to tunnel in, to crosscut, to sink additional shafts to determine the course of the vein, and some of them may just be protection, where you would want to build a mill. The matter of a mill site was mentioned. But maybe you do not know where you want the mill site. So you locate several claims. But is it not customary for your company, or the bigger companies, to go in and locate a block of claims, where the showing is on one claim and no showing on any of the rest? And they are perfectly valid, because they are used to develop the main discovery.

Mr. HOLBROOK. Senator, that is the practice. But I don't think any mining claim is valid unless there is a discovery, or unless you are actually in possession, working the claim, looking toward a discovery. That is my understanding of the mining law.

Senator MALONE. All right. But it is up to you to show that, now, through interdepartment action, which you are not doing. And you admit that by needing this new act.

But what I am saying to you: The Anaconda Copper Co.—how many claims do you think they have out in the Yerington area now? How much of that country do you think they have located?

Mr. HOLBROOK. I presume a great part of it.

Senator MALONE. Do you think there is copper under all of it?

Mr. HOLBROOK. No, Senator. You pose a problem under the mining laws which should be the subject of further study. I think there is a definite problem there, and it is a matter that the mining congress has under consideration, namely, how can mining claims be held without a discovery? Frankly, I think this bill is absolutely vital to work out any such arrangement.

Now, if we want to hold claims where there is no discovery, and there are valuable surface resources, you can see the problems we enter into.

Senator MALONE. I am not talking about valuable surface resources, except that they protect you in your discovery. And you also need the ground to operate from. You may start tunnel on a thing where you know you are not going to hit anything. You may run it for 2,000 feet. You do not expect to hit anything until you get in here under the lode.

Mr. HOLBROOK. What you say is quite necessary. I do not think there is adequate protection under the mining laws. I think it should be changed. And I think the possibilities of getting such a change

will be greatly enhanced if we can pass legislation comparable to this.

Senator MALONE. Well, now, let me ask you this. You are a lawyer. The distinguished junior Senator from Nevada is a lawyer. And I have been an expert witness in some of these cases. Have you ever known any of these claims to be taken away from one of them, that they are using to develop a lode, or that they have reasonable expectation that they may use in a court?

Mr. HOLBROOK. I can't put my hand on it right now.

Senator MALONE. I wish you would get some cases of that for this committee.

Mr. HOLBROOK. But I can tell you this, that at the moment Mr. Odum, the distinguished financier——

Senator MALONE. I know him.

Mr. HOLBROOK. Is carrying on a uranium operation in the State of Utah. And there are certain claims which it was believed were key claims. And I am informed, to give security to those locations, since there was uncertainty as to the sufficiency of the discovery, the productive horizon being at depth, that men had been placed on each of these key claims, and operations are being continued, so that they will be in the position of being in possession, diligently looking toward the discovery.

Senator MALONE. Then he is protected under the present law.

Mr. HOLBROOK. He is protected under the law. Now, that is a situation that I think needs some clarification in the law.

Senator MALONE. Do you think he is protected here?

Mr. HOLBROOK. This would not affect it in any way.

Senator MALONE. Well, of course. So you are not protecting Odum. You are not protecting anybody. What you are doing is getting a foot in the door to get a few more Government officials out there to tell this fellow, "Now, you do not have a discovery here, and we are going to do something about it."

Mr. HOLBROOK. No, Senator. That is not the intent of this bill, as I understand it.

Senator MALONE. But you can take everything there. You are taking out of the bill the right to locate certain things bodily. You are changing the whole mining setup where for 50 years, 80 years, you have had decision after decision. Every miner knows exactly where he stands. If he goes to the junior Senator from Nevada, who has had experience as an attorney, he can say, "Now, what can I do? What are the decisions on this?" And he can be told. Everyone knows he can get into a lawsuit. But is it not very well established, the 1872 mining law? Are there not many court decisions, decision after decision, so that a man knows what he can do under it?

Mr. HOLBROOK. I do not think we are upsetting any decision by this case, except that we are taking those very common minerals out from under the mining law.

Senator MALONE. So you are arranging it so that he has no control until he finally patents it.

Mr. HOLBROOK. He has all the rights he needs to carry on his mining operations, Senator.

Senator MALONE. I am glad to have your idea. But you are changing the setup entirely from the fact that a man can now locate a mining claim, 1,500 by 600 feet, and he can go in and dig a hole any place he

finds through his experiment, and he can follow that through, and nobody can say, "You do not belong here, because this is where this resource is," and no one can harass him or talk to him.

Mr. HOLBROOK. No; that is not my understanding.

Senator MALONE. Is that not your understanding, that he owns the whole business?

Mr. HOLBROOK. You are assuming it is a valid location? No, I think there are great differences of opinion, and there are now cases in the courts as to whether he has any right to the timber.

Senator MALONE. I do not know. By going to the court, let the court decide whether he owns anything else or not. I have no objection to that. It would not make any difference if I did have. What I am objecting to is some smart people coming in here and at one fell swoop, changing the setup and the prospector's location. And I think it would have a very vital effect on it. I am afraid it will have. And I think you have an entering wedge. Right now you have referred to that other legislation 2 or 3 different times; that this is a similar step. The next one will be another similar step, only a little bit further. And it will be just one thing after another. And we have had spectacles here in Congress, we had one just a few weeks ago, and every little while you have your departments sitting in with the committees telling them what to do, with public sentiment coming in for it. Now, luckily for me, I did not come to the Senate until after I had been all through that. And I know how you get wires and letters. And I know when I go out there and explain what it is. Most of them are coming in with these letters now, saying, "To prevent injurious legislation, we have to take action." That is what we are getting.

Senator BIBLE (presiding). Thank you very much, Mr. Holbrook. We appreciate very much your patience and your kindness in being here.

We stand in recess until 2 o'clock.

(Whereupon, at 12:45 p. m., the committee recessed until 2 p. m.)

AFTERNOON SESSION

Senator ANDERSON. The committee will be in order.

The first witness this afternoon will be Mr. Woozley.

Will you state your name for the record, and your position, and proceed, please?

STATEMENTS OF EDWARD WOOZLEY, DIRECTOR OF THE BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR; ELMER F. BENNETT, LEGISLATIVE COUNSEL, DEPARTMENT OF THE INTERIOR; AND LEWIS E. HOFFMAN, CHIEF, MINERAL DIVISION, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. WOOZLEY. My name is Edward Woozley. I am Director of the Bureau of Land Management in the Department of the Interior.

It is a pleasure to be here today, and we certainly appreciate the opportunity of appearing before your committee, Mr. Chairman.

S. 1713 is a bill which is designed to meet a problem with which the Department of the Interior has long been troubled. We believe

that the provisions of S. 1713 are well conceived and essential to the effective carrying out of the responsibilities assigned to our department with respect to mining activities on the public lands. Therefore, we endorse the provisions of S. 1713 and we strongly urge that it be enacted.

This bill, as we understand it, would serve two needs. First, it would facilitate the use of the surface of a given tract of public lands for multiple purposes. Second, it would enable us to prevent abuses which are possible under the letter of the existing mining laws, but which violate their spirits. We may summarize the provisions of S. 1713 briefly by saying that the first three sections would forbid the location of mining claims based upon deposits of common varieties of sand, stone, gravel, pumice, pumicite, and cinders, and would provide a means for the disposal of such materials, while the fourth section would limit the surface rights of the holder of an unpatented mining claim, and the fifth and sixth sections would provide a procedure for the clarification of surface rights appurtenant to mining claims existing at the time of the bill's enactment. Section 7 would protect existing rights.

It should be understood at the outset that the enactment of S. 1713 would not deprive the Secretary of the Interior of any authority which he now has with respect to unpatented mining claims. His existing authority to declare mining claims null and void would be unimpaired. S. 1713 would not substitute new authority for old, but would, instead, give the Department additional authority with respect to the management, disposition, and the use of the surface resources of unpatented claims.

The situation which this bill is intended to meet has existed for many years, but, because of more intensive Federal use of the public lands in recent years, it has drawn ever-increasing criticism.

Loopholes in the existing mining laws permit many abuses. Persons holding unpatented mining claims may prevent the orderly management and disposition of valuable surface resources such as timber and may block access to such resources, and yet pay little or no attention to mining themselves. Moreover, persons may base their claims upon deposits of common varieties of such minerals as those with which section 1 of S. 1713 deals, and while such deposits are technically of sufficient value to justify a mining location, they are often in reality of little worth when compared with the other natural resources on the unpatented claims, the proper utilization of which is hindered or prevented by the superior rights of the mining claimant. Moreover, by obtaining a mining location, persons have been able to acquire a color of right to the use of tracts even though they actually use those lands for nonmining purposes, perhaps even for a use so foreign to the spirit of the mining laws as a summer homesite.

These abuses could all be prevented, we believe, if this bill were enacted. As I have stated, after enactment of S. 1713, mining claims could not be based upon deposits of common varieties of sand, stone, gravel, pumice, pumicite, and cinders, all of which would in future be subject to disposition under the Materials Act of 1947.

Section 4 of the bill provides that any mining claim located after the enactment of the bill could not be used prior to the issuance of patent for any purposes other than prospecting, mining, or processing operations and uses reasonably incident thereto.

Section 5 of the bill provides a procedure for determining existing mining claims and the rights of the locators of those claims to the use of the surface. This procedure seems to us amply buttressed with requirements for notice and hearings to protect the rights of mining claimants.

If S. 1713 were enacted, taken together with Public Law 585 passed by Congress last year, we believe that a far more beneficial use and conservation of the surface and subsurface resources of lands belonging to the United States could be provided. And yet in no way do we believe that this bill would conflict with the desires of the mining industry. This bill seems to us to have the particular merit of satisfying the needs of the mining industry, the other users of the federally owned lands, and the Federal Government.

Although we endorse this bill, we suggest that it be amended in certain respects. These amendments are explained in detail in the Department's report which has been submitted to you. I shall content myself with stressing only the desirability of making certain that the provisions of S. 1713 apply to the Oregon and California Railroad grant lands and the Coos Bay Wagon Road grant lands in the same manner as to other federally owned lands, with the exception that all timber rights after patent would continue to be reserved to the United States. To assure this result our report suggests appropriate language.

We recognize that, if this bill is enacted, there will be imposed on the Department of the Interior a heavy burden of additional duties. We shall undoubtedly be compelled to undertake a great expansion of our existing staff.

We cannot give you an estimate of the number of unpatented mining claims, but it must run into the hundreds of thousands. Other departments and agencies will ask us to adjudicate, under the provisions of section 5, immense areas covered by unpatented claims.

For example, at the present time we have, in the Bureau of Land Management, 15 mineral examiners, and we believe that, with our present workload, we could well use 25. However, if S. 1713 should be enacted, 35 would probably be needed within the first fiscal year after the enactment of the bill, and within 10 years 75 more would be required.

Because the provisions of section 5 would authorize the heads of Federal departments and agencies to seek a determination of surface rights, and would not compel them to seek such a determination, it is particularly difficult for us to predict with any hope of accuracy the actual magnitude of the task which the enactment of this bill would impose on the Department of the Interior. However, we have no hesitation in saying that the additional workload would be more than compensated for by the benefits which would accrue from the enactment of S. 1713.

Thank you, gentlemen.

Senator ANDERSON. Thank you very much, Mr. Woozley.

Senator WATKINS, do you have any questions?

Senator WATKINS. No. I have no questions.

Senator MILLIKIN. Mr. Chairman.

Senator ANDERSON. Excuse me.

Senator Millikin.

Senator MILLIKIN. What does this do to the present rights of the miner?

Mr. WOOLEY. Actually if the miner actually has or will have a valid right it does very little.

Senator MILLIKIN. Who determines whether they have a valid right?

Mr. WOOLEY. I presume, Senator, that if he came in, at the time he was served concerning the surface rights, a determination would be made whether or not at that time he had a valid right, by the manager in charge of the Land Office.

Senator MILLIKIN. As distinguished from the law at the present time, who determines that at the present time?

Mr. WOOLEY. The same person.

Senator MILLIKIN. Then what is the difference?

Mr. WOOLEY. One difference would be that under the existing law we must make a minimal determination with a field examiner before we ask for a contest on his claim.

Senator MILLIKIN. What kind of a contest do you ask now?

Mr. WOOLEY. Well, we would file a protest. Or another agency may file a protest. If it is determined that the lands do not have sufficient mineral value or discovery has not been made, we can then, as we call it, adverse the claimant to determine whether or not he does have sufficient mineral values.

Senator MILLIKIN. How is that determined at the present time?

Mr. WOOLEY. By hearings.

Senator MILLIKIN. Who holds the hearings?

Mr. WOOLEY. Well, either the Land Office manager or a person delegated with that authority.

Senator MILLIKIN. Is there any court action at the present time?

Mr. WOOLEY. Yes, sir.

Senator MILLIKIN. What is that?

Mr. WOOLEY. The court action may apply after the proper procedure has been entered into on appeals.

Senator MILLIKIN. And all the questions you have been discussing can be determined in court?

Mr. WOOLEY. Yes, sir; I assume they could.

Senator MILLIKIN. Then what abridgement of court rights is there in the present act to support legislation?

Mr. WOOLEY. In my opinion, there would be no abridgment of court rights.

Senator MILLIKIN. Then in what respects are the rights of the possessor of the mining claim changed in any way?

Mr. WOOLEY. Well, the only way would be that if he were called to come in and determine whether or not he had sufficient rights to hold his surface during the period that it is under location, that he would be required to do that if he wished to use the surface rights, except for mining purposes.

Senator MILLIKIN. I am talking exclusively now about mining purposes.

What does this bill do to the mining purpose?

Mr. WOOLEY. Actually I don't see that it would at all be inhibitive to the person holding the mining claim for mining purposes. He could still use the surface for purposes incident to mining.

Senator MILLIKIN. None of the provisions in here in any way limit his present rights for mining purposes?

Mr. WOOLEY. No, sir; I do not believe they do.

Senator MILLIKIN. What do they do then that is different?

Mr. WOOLEY. It would alleviate the necessity of making a mineral determination before we could use the surface rights or manage the surface rights.

Senator MILLIKIN. At the present time I make a mining location and follow the State procedure to do so. How does it interfere with that in any way?

Mr. WOOLEY. It would not interfere with that.

Senator MILLIKIN. I come back then to my question.

Senator ANDERSON. May I ask a question?

Providing that he was not doing it to get sand or gravel or something of that nature.

Mr. WOOLEY. Oh, yes.

Senator ANDERSON. For hard minerals it would be exactly the same.

Mr. WOOLEY. Yes, sir; that is correct.

Senator MILLIKIN. Well, I make a location and make a discovery and put out my stakes and so forth and so on. In what respect does this bill interfere with that and with the rights that flow from it?

Mr. WOOLEY. I do not think it interferes at all.

Senator MILLIKIN. In what respect does it inhibit the rights that I normally would have or think I have?

Mr. WOOLEY. Well, it might inhibit the rights, if you want to defend your claim or if you wanted to deny ingress or egress for livestock or for timber access roads or something of that kind across the claim while it was actually under location.

A mining claimant now, as I understand it, has the right to do that.

Senator MILLIKIN. What about timber rights?

First, let me ask you what are the present timber rights of a mining locator in a perfected location but which has not gone to patent?

Mr. WOOLEY. I think that he is not permitted to cut and sell the timber. He is only permitted to use such timber as is needed in his mining operations from the surface during the time it is under location.

Senator MILLIKIN. He has that right?

Mr. WOOLEY. Yes, sir.

Senator MILLIKIN. Does this interfere with in in any way?

Mr. WOOLEY. No, sir.

Senator MILLIKIN. What does this do?

Mr. WOOLEY. It gives the agency managing the land the right to manage the timber resources pending patent.

Senator MILLIKIN. That is quite a change in the man's situation, is it not?

Mr. WOOLEY. Not as far as mining operations, Senator. It would in no way interfere with his mining operations.

Senator MILLIKIN. Explain to me what my present rights are as to timber as a locator. Not as a patentee, but as a locator, and as they will be inhibited or diminished or enlarged or otherwise changed under this act.

Mr. WOOLEY. Well, as I understand this act, it would not be changed because you would still use whatever timber was on the surface of the land that you needed in your mining operations.

Under the present law that is all the timber that you were permitted to use.

Senator MILLIKIN. Under the new law would those timber rights in any way be changed while I am in the course of perfecting my location and intend to obtain a patent? What can the Department do that it cannot do now?

Mr. WOOLEY. It could manage those timber resources. It could cut out the overmatured trees. I presume they could have a timber sale on there for the timber that is not needed in the mining operation.

Senator MILLIKIN. Who decides that?

Mr. WOOLEY. The person managing the surface rights.

Senator MILLIKIN. Who is the person managing the surface rights?

Mr. WOOLEY. It may be the Forest Service. It might be the Bureau of Land Management.

Senator MILLIKIN. Assuming their judgment is wrong, assuming that they clean off all the timber on a mining claim to which I have a valid right, how do I get timber to pursue my mining operation?

Mr. WOOLEY. I cannot answer that, I am afraid.

Senator MILLIKIN. Somebody ought to be prepared to answer that.

Mr. WOOLEY. Yes, sir. I would like to call on Mr. Bennett from the Department of the Interior to answer that.

Mr. BENNETT. The provisions dealing with the use, management, and disposition of the vegetative resources including the timber will be found on page 5 of the bill.

Now, if we assume that the mining claimant currently needs the timber in his mining operation, then this bill protects him with a legal right. If the Government should sell the timber under those conditions he would have a right to recover for the amount of the loss to him, in my opinion.

Senator MILLIKIN. Would the Government be required to supply him with the timber necessary to conduct his mining operations?

Mr. BENNETT. No; but he would be entitled to damages.

Senator MILLIKIN. That could be a rather naked right, could it not? Supposing I am proceeding with a mining operation and I need timber and I haven't got it because they have taken it off my claim. Is all that I have a lawsuit?

Mr. BENNETT. No, Senator. I believe that there is also authority today in the Government agencies—but not as a matter of legal right—to provide him with timber under those circumstances.

Now the Forest Service people have been or would be in a much better position to indicate whether, under the present regulations, they might have that kind of authority. However, there is no such authority conferred in this bill.

Senator MILLIKIN. All I am getting at is this, Mr. Bennett: I am a valid mining locator; I am entitled to the timber at the present time that I need to run my mining operation, no matter what that mining operation is, assuming it is a legitimate mining operation. The timber is gone because some agency has sold it.

Who makes the timber good?

I don't care for a lawsuit. I am not making a location on a lawsuit. I want timber. Who supplies it?

Mr. BENNETT. In my personal opinion the locator has nothing but a lawsuit under those circumstances.

Senator ANDERSON. Would it be fair to say, however, that if he is a valid claimant, if he is going in to file a valid claim for mining, his position with respect to his rights is not changed in the slightest by this bill?

Mr. BENNETT. Well, as of today, Senator, I could not agree with that for this reason: Under the mining laws the better authority seems to indicate that the Government would have no right to sell the timber off the area although the miner's right to the timber is limited to that quantity he might need for his mining operations. But under the present law the timber would have to be left on that claim so long as the claim was in a valid status, thus it would be available when the need arises. I believe I am right in that.

I think this problem, of course, comes up much more frequently in the Forest Service than it does with us in Interior.

Senator ANDERSON. Neither the Forest Service nor the Department of the Interior, which administers the O. & C. lands, makes it a practice to go in and strip the country of all its timber. They are interested in preserving the forests.

A mining claim locator has a right only to the timber that he needs in his mining operations.

Now, under S. 1713, he still has a right to that much timber?

Mr. BENNETT. Yes, he has a legal right to it under the language of S. 1713 if it is needed in his current mining operation.

Senator ANDERSON. Providing he is not mining sand and gravel or pumice.

Mr. BENNETT. That is right.

Senator ANDERSON. They have been claiming rights to timber while they were taking out sand and gravel and pumice at the present time.

Senator MILLIKIN. I repeat the question:

If they come in and remove the timber while I am pursuing a legitimate mining location, how do I get the timber for my mine?

Mr. Bennet suggested I have a lawsuit, and I did not make a location to get a lawsuit.

Senator ANDERSON. What do you have now but a lawsuit?

Senator MILLIKIN. They don't bother you at the present time.

Mr. BENNETT. At the present time Government agencies are faced with somewhat of a dilemma. They are put in a position where, if they are making a timber sale and they have reason to doubt the validity of the claims in the area, they have only one recourse if they are to be sure of their title. They must make a physical examination of each individual claim, and they must request the Department of the Interior to adverse those claims which they believe to be invalid.

Whether all of them are invalid or some of them are valid is not exactly the point here because what the Forest Service is interested in is an assurance of clear title when they make a timber sale.

Senator MILLIKIN. Must they do these things before they proceed to remove the timber?

Mr. BENNETT. If they don't, they are in a position where, Senator, they may have unlawfully destroyed a miner's property right to timber. However, in the end, the miner may have nothing but a lawsuit under the present law, in my view.

Senator MILLIKIN. Under the present law do they do any of those things while he is pursuing his mining location?

Mr. BENNETT. Well, if they believe that it is an invalid claim, the Forest Service or the Bureau of Land Management may commence adverse proceedings to test the claim's validity.

Senator MILLIKIN. Assuming that in the end it will be determined that he has a proper, valid location, in the meantime can they go in and take all the timber away and leave him nothing but a lawsuit?

Mr. BENNETT. Not without violating his legal rights, Senator.

Senator MILLIKIN. They would not do that at the present time, would they?

Mr. BENNETT. Not intentionally, I am sure.

Senator MILLIKIN. But could they do it intentionally under this act and leave him a lawsuit?

Mr. BENNETT. No. To the extent timber was cut to which he is entitled it would be a violation of legal right in exactly the same sense that it is under the present law.

Senator MILLIKIN. What is the difference between this law and the present law?

Mr. BENNETT. I could state quite a number of them, sir.

Senator MILLIKIN. I wish you would state them. I would like to have them stated.

Mr. BENNETT. To begin with, it takes certain common varieties of mineral materials, sand, stone, gravel, pumice, pumicite, cinders—but only the common varieties thereof—out of the mining laws completely. Mining claims could no longer be located with respect to those materials.

The second major effect of this legislation is to provide, as to future claims, that the Federal Government, while the claim is in an unpatented status, reserves the right to manage all of the surface resources to the extent that that management does not materially interfere with or endanger mining operations of the locator.

Further, it gives the authority to dispose of vegetative materials—that would include the forage and the timber on the claim—subject to the right of the mining operator to use such timber as is needed in his mining operations.

The third major effect of the legislation is to provide a proceeding under which the surface rights of existing claimants may be determined in what is expected to be a more expeditious manner than the present proceedings would provide, and it does that by the same quasi in rem proceeding which was provided in Public Law 585 of a year ago with respect to the competing rights of such persons as Mineral Leasing Act lessees and mining claimants.

Senator MILLIKIN. What about the location of townsites? I think there is lots of law on that. I think we have had cases involving the timber rights in connection with location of townsites.

Mr. BENNETT. I think that is so, sir, but I am not familiar with that.

I would say that you might have some conflicts involved here in which the homesite or townsite laws could be applicable to the surface rights reserved by the United States. But at all times any nonmining use of the surface of a mining claim would be subject to the requirement that it must not endanger or materially interfere with prospecting, mining or processing operations or uses reasonably incident thereto.

Senator WATKINS. You are quoting now from the law?

Mr. BENNETT. Yes; from the bill, on page 5.

Senator MILLIKIN. I am reading now from the case annotations of section 26 of title 30 of the United States Code Annotated. It says:

Extending into townsite lots the extralateral right of a locator to follow a mineral vein which apexes on his location beyond his own surface sidelines beneath other lands does not exist in townsite lots which are held under non-mineral townsite patents even though original location of vein is outside townsite.

That is one case.

The use of phrase "parts of veins" in contract between mine owners by which first mine owner granted to second mineowner all veins and parts of veins having their apexes within certain boundaries under townsite lot did not disclose intent to alter statutory scheme which parties were attempting to follow ordinarily applicable to property outside townsite lots.

I don't know that that is necessarily applicable to what I am talking about. I am getting at the point how does the present system injure anyone, and what does this bill do to correct it.

Mr. BENNETT. I think Mr. Woosley's statement and Mr. Holbrook's statement this morning pointed out the objectives of the legislation. There are hundreds of thousands of mining claims on public lands. They are initiated—and properly so, in our judgment—on a unilateral basis. But there is no requirement whatsoever under present law to require a man who is through with a mining claim and gives it up to take any action to eliminate his mining location as a cloud on the use of that surface by other parties in future years.

This bill is not designed in any way—

Senator MALONE. At that point, any human being 21 years old can locate it and file on it, can he not?

Mr. BENNETT. That is quite right, sir. And it could be jumped. The claim could be jumped if the—

Senator MALONE. You said there was no way out.

Mr. BENNETT. If the assessment work is not performed.

Senator MALONE. Then your statement is not correct.

Mr. BENNETT. No: I am talking about other uses. In other words, I am not talking about mining uses; I am talking about uses for grazing purposes or perhaps timber management by the Forest Service, or some other type of use.

Senator MALONE. You already explained you have your way of doing that if you instituted the proceeding.

Mr. BENNETT. That is right. And I am coming to a description of the difference between the proceeding that is involved in this bill and the proceeding which must be followed at the present time.

Now the land managing agencies, the Bureau of Land Management and the Forest Service, find that there are claims on the record which may be 50, 60, or 70 years old. Under those circumstances the areas embodied within those mining claims are in a status where the land managing agency or any other user of that area is taking a risk if he attempts to make any use of the surface of those areas. There is no way to determine whether those claims are active or whether they have been abandoned. And this procedure, which is set up on S. 1713, is designed to expedite the determination of those claims which are valid and those which are not for the purpose of surface rights only.

This procedure does not affect any mining claimant's rights to use the mining claim for mining purposes.

Even if this procedure is completed from the first step to the end the locator does not lose his mineral rights in any sense, or his right to use such of the surface as he may need for mining purposes. There is no effort in this legislation to reach that conclusion. This is merely designed to supplement the existing laws with respect to surface resources.

Now the purpose here is to deal with this kind of a situation: The better line of authorities in connection with mining law indicates that the mining claimant has a right of exclusive possession, but that his rights to use the surface are limited to those rights needed to carry on his mining operations.

So he, in effect, has a negative right other than his mining rights, a right to keep the United States or any other person from making any other use of the surface of the mining claim.

That is the problem that we are attempting to reach here. We are not proposing the establishment of any arbitrary statute of limitations. We are not requiring the recordation of mining claims or any of the other features which the mining industry has found so objectionable in legislative proposals that have come before this committee in previous years. And I can say without hesitation that our Department last year vigorously opposed proposals that were made for such recordation.

We are trying here, though, to solve the surface rights problem without disturbing in any way the mineral rights of a mining claimant.

Now what is wrong with the present procedure? The procedure, in the first place, has as its only statutory authority several very general statutes which merely say that the Secretary of the Interior may issue such regulations as he sees fit for the proper management of the public lands. There is no statutory procedure today defining exactly what kind of notice and hearing a mining claimant needs before the Secretary of the Interior can declare that his mining claim is invalid.

The regulations which are in effect today have been sustained by the Supreme Court in the Cameron case, which appears on 252 U. S. reports. But there is no assurance, I would like to point out in the beginning, under present law that some future Secretary of the Interior won't take away some of those notice-and-hearing requirements. Here the committee has before it proposed legislation which, in order to reach the surface rights problem, spells out a statutory procedure designed to give the mining claimant a full and adequate protection.

Senator MILLIKIN. Let us assume that I have made a claimed location, that I have a bona fide mining purpose. What can happen to me that might set up interferences as a result of this legislation?

Mr. BENNETT. You might have controversy. You would have it today, too, over the extent to which he is using the surface for a summer homesite, or perhaps you may have questions, which I know are involved in litigation today, between grazing permittees and the mining locator as to the kind of use he is making of the surface of the land. You have a number of controversies of that kind today.

Now this legislation is designed to make it clear that the surface is subject to other uses besides mining uses. In that respect those

mining claimants who locate claims in the future would understand from the beginning that the surface of the claim is still subject to their use so long as they are using it for mining purposes. But, to the extent they do not need it for mining purposes, it may be used for other purposes.

Senator MILLIKIN. What other purposes? I am trying to measure the number of conflicts or possible conflicts that could occur between a valid mining locator and grazing and fishing and other things that might be set up. What are the different uses that the mining locator might interfere with?

Mr. BENNETT. I think Mr. Woozley, as Land Manager, would be in a better position to give you a broad picture of the number of uses that would conflict than I am.

Of course, the grazing use, as you mentioned, is definitely one. Another is timber.

Senator ANDERSON. Mr. McArdle, Chief of the Forest Service, is going to testify next.

Mr. BENNETT. Thirdly, you have recreational uses, fishing, for example. At the present time it would appear that the law would permit a mining locator to prevent a fisherman from coming on the surface of the mining claim for the purpose of fishing.

Senator MILLIKIN. What restrictions on the new rights would there be to assure the orderly development of the mining claim.

Mr. BENNETT. The bill itself has provisions which were designed specifically for that purpose.

The proviso which appears in Subsection 4 (b) reads as follows:

Provided, however, That any use of the surface of such mining claim by the United States, its permittees or licensees, shall be such as not to endanger or materially interfere with prospecting, mining or processing operations, or uses reasonably incident thereto.

Senator MILLIKIN. Why is this not limited to forestry lands?

Mr. BENNETT. Because the conflicts with which this bill deals are conflicts which go beyond the timber field alone.

Mr. Woozley here could describe the very active conflicts that are occurring today in certain States of the West between grazing uses and mining uses.

The grazing lands, as you know, are largely under the jurisdiction of the Bureau of Land Management, and have nothing at all to do with the Forest Service. The Forest Service has grazing lands also, but the Bureau of Land Management is really the agency that is chiefly concerned with grazing conflicts.

Senator MILLIKIN. It has been suggested to me that under the Tort Claims Act administrative settlement is confined to those claims not exceeding \$1,000.

Mr. BENNETT. That would mean a court action would be necessary if it were over that.

Senator MILLIKIN. If it is over \$1,000 you have to have a court action?

Mr. BENNETT. Yes, that is correct. That is part of the provisions of the Tort Claims Act.

Senator MILLIKIN. And suit in a Federal court would be the only recourse then?

Mr. BENNETT. I would say so.

Senator MILLIKIN. Under this present bill.

Mr. BENNETT. That is correct.

Mr. WOOLEY. Two uses that have not been mentioned are watershed protection and erosion control.

Senator MALONE. What were those two?

Mr. WOOLEY. Erosion control in the Southwest and watershed protection.

Senator MILLIKIN. How could those interfere with the rights of the locator?

Mr. WOOLEY. Under present uses, I feel very definitely that some people are taking advantage of using the surface rights for purposes not incident actually to mining.

Senator MILLIKIN. Give me examples.

Mr. WOOLEY. I think your bulldozer examples out in New Mexico and probably in Arizona and Colorado and Wyoming, in the exploration for uranium, is one very good example.

Senator MILLIKIN. What are they doing?

Mr. WOOLEY. They are stripping the land in certain areas much more than is necessary for their actual mining operations, destroying the topsoil and allowing the wind to blow the land around.

Senator ANDERSON. Is it not true, Mr. Woolley, that they get a claim without regard to whether they know what is in there now? Of course, they couldn't know. But even without a good Geiger counter showing they will take a bulldozer and keep running it down to see whether the Geiger counter can reveal something.

Mr. WOOLEY. That is right.

Senator ANDERSON. You can go out today and get money for any kind of uranium mining by the sale of stock. We are having an epidemic of bad erosion practices by taking the bulldozers and just promiscuously running them across the landscape.

Senator MALONE. Do you mean, Mr. Woolley, that there is a great percentage of the area of these lands that is being bulldozed in that connection?

Mr. WOOLEY. There is sufficient, Senator, when you dig a hole on each claim or use a bulldozer on each claim, that it is setting up a terrific erosion problem. The Federal Government and the people using the range are spending money to build and vegetate these ranges, and, on the other hand, they are being abused.

Senator MALONE. Would you stop all this?

Mr. WOOLEY. We would have a much better chance of stopping that under this act than under the existing laws.

Senator MALONE. I ask you, Would you attempt to stop it? Do you want to stop it?

Mr. WOOLEY. We would stop the uses which are not necessary to exploration.

Senator MALONE. Who would judge what is necessary? You, as range supervisor?

Mr. WOOLEY. I think most of the States set up the guide lines under the State laws as to what is necessary for a discovery or exploration for discovery.

Senator MALONE. That would be a good deal like putting an engineer in charge of a hospital, would it not?

Mr. WOOLEY. I don't know what police powers the States are using in that regard.

Senator MALONE. I am talking about you.

Mr. WOOLEY. No. I think that if we could actually, Senator, under the terms of this bill, require those people who might have filed to come in and prove that they need the surface rights in operation of their mining, that plenty of these abuses could be stopped.

Senator MALONE. Do you want to put them through the trouble of coming into Washington and making application in the local government land office and proving to this man that they are likely to find mineral there before they start doing any location?

Mr. WOOLEY. No, sir. I don't think the minerals part of it comes in in the first instance. We are only interested in the protection of the surface rights. And the mineral rights do not come into a town unless the person comes in and wants to hold the full surface rights. Then they hold a contest.

Senator MALONE. What is he using the bulldozer for? Is it not to find out what is underneath?

Mr. WOOLEY. That is very questionable. It is just to do his assessment work, his necessary work. I do not think it is doing anything to determine what minerals are there, Senator.

Senator MALONE. Are you not then amending the wrong law?

Mr. WOOLEY. No. I think this law would do that.

Senator MALONE. Maybe you had better get at it and figure out what kind of assessment work he ought to do, if you know.

Mr. WOOLEY. I think the assessment work requirement is pretty well spelled out. It has to do with mining operations.

But we, as a management agency, have very little to do with the surface of the mining claim while it is under location under present law.

Senator MALONE. I do not want to divert from this.

Had you finished, Senator?

Senator MILLIKIN. You go right ahead.

Senator MALONE. You go ahead. I was very much interested in your questions.

Senator BARRETT. Would the Senator yield to me at that point?

I would like to get a little clarification of the statement that Mr. Wooley just made.

I do not interpret the bill that if it is enacted the Secretary of the Interior can call upon these mining claimants to come in and show what need they have for the surface. As I understand this bill—correct me if I am wrong—the only thing you can do is to serve a notice on them and make them come in and show cause and show that they are entitled to not only the mining claim but to the surface as well. And if they are not entitled to the surface, then they can keep the mining claim, they can go on with their mining, but they lose the right to the exclusive use of the surface.

Am I correct?

Mr. BENNETT. That is correct, sir.

Senator BARRETT. He doesn't make a showing about how much of the surface they need.

Mr. BENNETT. If the locator wishes to claim exclusive surface control all he needs to do is show that he has an existing valid claim under the laws as they were prior to the enactment of this bill. If he does that, he then has every right preserved to him which he has under the law today.

Senator BARRETT. And if he does not do anything he does not lose the right to minerals under that claim. He can still go ahead and do that, but he doesn't have the exclusive right to the surface.

Mr. BENNETT. That is correct. That is all he would lose by failure to come in.

Senator BARRETT. He does not have to make any showing about the use that he is making or intends to make of the surface?

Mr. BENNETT. That would be immaterial to the proceeding. The mining locator would not be required to make any such showing. All he would have to do is to show that prior to the date of enactment of this bill he had located a valid claim and that it was valid at the time.

Senator BARRETT. And that it is valid at the present time?

Mr. BENNETT. Yes.

Senator BARRETT. In that way he would have to show that he had made a legal discovery and that he had done the assessment work required.

Mr. BENNETT. He would not have to make a showing on the assessment work unless some third party had come into it as a protesting party and claiming adverse interest.

Senator BARRETT. There is no question raised in these proceedings as to the mining claim itself.

Mr. BENNETT. If by that you mean the right to the minerals and the right to use the surface as needed for the recovery of minerals, that is correct.

Senator BARRETT. There is nothing as against the minerals being undertaken; it is only against the surface.

Mr. BENNETT. That is correct.

Senator MILLIKIN. I still do not understand the purpose of the bulldozers. Why do they do this bulldozing?

Senator BARRETT. Let me explain it. I think I know something about it from a practical standpoint.

It is a very dangerous situation. It is happening out in Wyoming at the present time. They hire people to prove up or to do the amount of work necessary in order to make a showing for a discovery, and they get these bulldozers and start out on maybe a 20-mile hike across the country. They will skip the fee lands, deeded lands. But when they come onto a piece of land where the Government owns the minerals they will drop down and dig a hole. They will go along a short ways and drop down again and dig another hole. And they go on through the whole country. They are digging them all over creation.

Senator ANDERSON. Is it not true that the ranchers out there are pretty anxious about this?

Senator BARRETT. Very much so, because these open pits are very dangerous for livestock. They are dangerous for humans. A man driving along there after a snowfall with a horse could drop down in one of those holes, and it would throw him over.

Senator MALONE. If you dug it with a No. 2 shovel it would still be there, would it not?

Senator BARRETT. That is right. But I am trying to explain to Senator Millikin how they are doing it on a wholesale basis out there at the present time.

I do not want to get into any argument with these mining people because I am in favor of maintaining the mining law. And this bill maintains the mining law. I think I know something about this mining law because I have had some experience before the Leasing Act up in our country on this thing. I do not think there is a valid discovery in the whole State of Wyoming. If there is, there are so few of them you can count them on the fingers of your hands.

They are making these holes every 500 feet or 1,000 feet, whatever it is.

Senator MILLIKIN. Do they dig those holes to find mineral or to exploit a discovery that has already been made?

Senator BARRETT. They dig those holes to establish a discovery. When they get through they come in and file a statement that they have discovered uranium on every one of them. Not 1 out of 10,000 of them will have a discovery of uranium.

Senator MALONE. Is it not also the assessment work?

Senator BARRETT. Not at the present time. But they could do it later on.

Senator MALONE. I think they do a lot of assessment work.

Senator BARRETT. Our country is new as far as this uranium business is concerned, and at the present time it is all based on discovery. The assessment work comes a year later. Isn't that right?

Mr. BENNETT. Well, Mr. Woозley, I think, is better qualified to answer that factual question. But I have understood that many of the complaints from the grazing people in particular have been in cases where the bulldozing work was done as a simple way of getting the assessment work accomplished. There was no particular reason to believe that they had not discovered it because they had done that, but it was to make a showing of discovery work, as Senator Malone indicated.

Senator MALONE. Let's take this discovery work. You have to do \$100 worth of work.

If you use a bulldozer that costs you \$100 a day, for 1 day, or use a man with a No. 2 shovel, who costs you \$10 a day, and he works 10 days, what is the difference? There may be a little difference in the way the dirt is moved. But it is not the amount of dirt you move; it is the amount it costs to move it, is it not?

Mr. BENNETT. Mr. Woозley would be able to answer that.

Senator MALONE. You are in the Department of the Interior.

Mr. BENNETT. I suppose you could dig a hole with a No. shovel, and it might look the same as it would with a bulldozer.

Senator MALONE. You could not.

Let's get down to bedrock. Where were you raised? Where are you from?

Mr. BENNETT. I am from Colorado.

Senator MALONE. Have you ever been in the mining business?

Mr. BENNETT. No.

Senator MALONE. Let me tell you something about it then.

It is a hundred dollars worth of work.

Mr. BENNETT. That is right.

Senator MALONE. In the logical way of doing mining work, if you put a couple of men out there to move a hundred dollars worth of dirt, if you have paid them a hundred dollars and they have worked steadily,

you can prove up that you have done your assessment work. If you take a bulldozer in there and it costs you a hundred dollars for 2 hours' work or a day, or whatever it is, and you prove you paid a hundred dollars and they actually worked, you can go in and file on your assessment work. Is that not about true?

Mr. BENNETT. That is right, sir.

It could be that there would be no more damage, from the point of view of the surface, from a bulldozer than there would be from a No. 2 shovel.

Senator MALONE. This is the first time that a miner has ever been attacked because someone wanted to use the range. In our State I have never heard a range man complain about assessment work.

Senator BARRETT. Let me tell you something here.

This is an entirely different situation than has ever prevailed before in the history of our country when, instead of having relatively few of these claims, we have got hundreds of thousands of them.

Senator MALONE. I can see your problem.

Then aren't we attacking it in the wrong way? If they think they are disturbing the range and they are doing too much of this work, it is not done in the right way, they have a way which was explained this morning by the witness of an interdepartmental setup to determine what they are doing, whether it is the legitimate way of doing it or not, and whether it is a legitimate location.

Now I certainly would never be in favor of trying to preserve the range as against a miner. That is to say, if it came to keeping them off the location of a mining claim because you need it for grazing. You might regulate how they are doing it.

Senator BARRETT. Don't misunderstand me. I was not raising any objection about doing this discovery work or assessment work, as far as this is concerned, or using the bulldozers.

I am merely trying to explain to Senator Millikin how it has worked out in practice. But I do think that the time has come when we have got to make some arrangements with reference to the multiple use of that surface. The people who have been there for the last 75 years have got some rights, too. They have got the right to use this land for harvesting the grass crop and so on.

Senator MALONE. I think there may be some way of getting at that.

I would like to know from one of you experts how you are going to know how much timber you are going to need for your mining operation until you know how extensive it is going to be. If you do know that there are hundreds of these locations made, in maybe 1 out of a hundred of them somebody will put in a couple of hundred thousand dollars to go ahead, or 10 thousand dollars to go ahead and dig a little while on it. They cannot tell whether they are going to need any timber or not until they find the character of the ground, how deep they are going to be, whether it will be a tunnel or whether it will be a shaft or whether it will be an open cut.

From your testimony, a man could work along there 2 or 3 years not knowing how much timber he is going to use. And maybe there's plenty of timber there for everybody. Maybe there are only 50 trees on it. But if he hits a mine finally—and one out of a hundred might turn into a mine—he might need a good deal of timber. But he cannot testify to that at the time until he has done his development work

and drilling and cost studies and whatever there is and determined the ores there in place.

And in the meantime, as Senator Millikin asked you, some smart bureau people have sold the timber, or they have made some arrangement so that he has no right to it. Then he could go and sue Uncle Sam and make him buy him timber for the mines.

Is that your idea?

Mr. BENNETT. I did not say that was my idea. I was asked to interpret what the effect of the bill was. And that is the way I described it, Senator.

Senator MALONE. In other words, there is no human being on earth who can tell how much you are going to need until after you keep digging and borrowing money from your friends, and finally you will meet some engineer or somebody that will recommend to the man he is working for to put some money in it.

I think that is a thing that is established. I think you will admit that. Do you understand that? Do you, Mr. Woosley?

Mr. WOOSLEY. Yes, sir, I understand that.

Senator MALONE. I wanted the record clear. Now as to grazing——

Senator BARRETT. Do you yield before you get to the grazing?

Senator MALONE. All right.

Senator BARRETT. Let me ask you this question, if you don't mind:

Supposing I got out here on the forest and file my claim and there is a fine stand of timber, and I build myself a little summer home out there and go into the business of harvesting the timber crop and do not bother my head about any mining operation.

Senator MALONE. It has been testified this morning that there is plenty of interdepartmental procedure to get rid of that fellow.

Senator BARRETT. There are some of them doing it.

Senator MALONE. If they are they are not doing their work. They may need more money to do it.

Senator BARRETT. I don't know about that. I have had some experience at that 30 years ago, and it is a pretty cumbersome job to get rid of them under the existing law.

Senator MALONE. It is. But the department will have to get off its sofa chair.

Senator BARRETT. There will have to be more appropriated for the Interior Department than we appropriate today.

Senator MALONE. I will give it to them. They are not enforcing the law as it is now.

I want to go on to this range thing.

We still have people out in our country up there in the timber with a couple of horses or a couple of burrows who go in there and turn them loose on the mining claims, and they probably graze on other people's claims, too. If you rent this range, and it is that important, what arrangements do you make for the fellow to put his own stuff on it while he is working on it?

Mr. WOOSLEY. That is not the problem, Senator.

Senator MALONE. It would be a problem when you started to work under this bill. It could be easily.

Senator ANDERSON. Did this bill change anything?

Senator MALONE. He can go in and rent all that grass, and the fellow he rents it to can make this fellow keep his stuff off of it.

Mr. BENNETT. I don't believe so, Senator, under subsection (c) of section 4.

Senator ANDERSON. I wish you would find that in the bill.

Senator MALONE. Read it.

Mr. BENNETT. Subsection (c) of section 4 reads as follows:

Except to the extent required for the mining claimant's prospecting, mining, or processing operations and uses reasonably incident thereto, or for the construction of buildings or structures in connection therewith, or to provide clearance for such operations or uses, or to the extent authorized by the United States, no claimant of any mining claims hereafter located under the mining laws of the United States shall, prior to the issuance of patent therefor, sever, remove, or use any vegetative or other surface resources thereof which are subject to management or disposition by the United States under the preceding subsection (b).

If he had livestock, in other words, that he was using as a reasonable incident to his mining operations, he would be entitled to use the grass, and he would not have to go to the Bureau to get a permit either. It would be a legal right given to him by this bill.

Senator MALONE. Have you had any complaints that these fellows have either grazed too much country that they have located, or rented it to somebody else?

Mr. WOOLEY. Yes; we have. But that has been tried in the courts.

Senator MALONE. What happened to it?

Mr. WOOLEY. We had one case in Idaho, and I think there was recently one in Colorado.

Senator MALONE. What happened?

Senator ANDERSON. May I read what happened in the Rizzinelli case?

The circuit court ruled that lands in a forest reserve embraced in the mining claim continued to constitute a part of the reserve, notwithstanding the mineral location subject to all the legal rights and privileges of the locator.

In this case, the so-called mining claimant put a saloon on his claim. That sort of thing is going on all the time under the mining law. Mining claimants put hot dog stands in the national forests. That sort of thing has been going on under the mining laws for years, and is getting worse.

Senator MALONE. Can they do that?

Senator ANDERSON. This bill will go a long way toward preventing such abuses.

How do provisions for such a purpose change the right of a man who is coming in to run a bona fide mining operation? He has a right to the timber, under the bill, for his mining needs. He has a right to that much timber under present law. You are proceeding on the theory that the Federal Government is going to go ahead and strip this land. That is not the way the Forest Service operates.

Senator MALONE. They can take care of all these cases under the present law just as they do this. That is all I was trying to say.

But they have to get out there. They can't wear out so many cushions. They don't see these fellows out there on these mining claims at all.

Mr. WOOLEY. In this statement we stated that we have a certain number of mining evaluation engineers. They are busy men. They are not sitting on plush seats. But under the present system it would require many more times the people than it would under this because you would have to examine every claim.

Senator MALONE. We established this morning that what it does is it puts the shoe on the other foot.

Now you have to go out and do the work, and if you pass this bill the mining boy is in the soup, and he has to get the engineer to go over it. That is what we are trying to prevent.

Mr. WOZZLEY. We are thinking in partnerships. Should the responsibility be entirely on the Government?

Senator MALONE. No, sir. We have tried, and I think successfully during this 20 years—and I am sorry that now it is 22—to fight off legislation that makes it increasingly tougher for a man to do anything on a mining claim.

Now, 2 years ago, when I was chairman of the committee considering Senator Millikin's and the present Governor of Colorado, Senator Johnson's bill, we had no difficulty in coordinating anything that was necessary to coordinate, and we passed that bill because it was necessary. Now it is being used as a precedent to pass this one. And if they get this one it will be used as a precedent to pass something else.

There's nothing new in this at all. It is a question of enforcing what you have.

Senator ANDERSON. No; I would not agree with that at all.

Senator BARRETT. Would you yield to me, Senator?

Senator MALONE. Yes.

Senator BARRETT. Let me get this clear.

If you concede what Senator Malone is indicating here and bring these actions under existing law you attack the rights to the mines, to the minerals as well as to the surface. There is the distinction.

This will not affect the minerals in the land. The fellow has a right to extract those minerals.

Senator MALONE. I have watched this thing for 22 years. You don't repeal their right to do the other. So you are just giving them an additional shove so they get on there and cut the timber, and then they say to you "I don't see any valid location here," and they still have the right to shut them off.

Senator BARRETT. You can still use the surface for all the rights incidental to the prosecution of the mining claim.

Senator MALONE. What I am saying is—and I think we can argue this out in committee—nobody knows how much timber you are going to use on a mining claim. You might have had it 20 years, and you don't know if you are still working it. If you hit it you have got it and you want it.

Senator BARRETT. They will contend you are defeating your own purpose by insisting upon recourse to a proceeding here that will rule out your rights to mine.

Senator MALONE. They still have that.

Senator BARRETT. Yes; but they are not proposing to use it.

Senator MALONE. Not right now.

Senator BARRETT. They are proposing to use only the one concerning the surface alone.

Senator ANDERSON. I am hoping we might suggest this: we have got 10 witnesses here. I wonder if the Senators—

Senator MALONE. I would like to ask one or two of them a question.

Senator ANDERSON. Mr. McArdle is here from the Forestry Service.

Senator MALONE. Mr. Woosley and Mr. Bennett are here, and they are two experts. Their testimony looks good until you ask them some questions. And if I could just pursue it I won't take long.

Mr. Woosley, either one of you can answer to expedite it.

Right at the moment, if there is a location and you think it is doing damage, what is your recourse?

Mr. WOOSLEY. We could file adverse proceedings and proceed to hearings and the usual appeals through the department.

Senator MALONE. Where do you file it? And who files it?

Mr. WOOSLEY. It is filed by the Land Office manager.

Senator MALONE. It has to be filed by the Land Office manager? Or could it be filed by any Government department that has some responsibility to the land in question?

Mr. WOOSLEY. I will have to ask the attorney that. I think it is filed by the manager.

Mr. BENNETT. Actually those proceedings may be requested by other departments, but the Interior Department is really the one that is responsible.

Senator MALONE. The local land office in the State in which it is to be filed has to initiate the proceedings?

Mr. BENNETT. That is right.

Senator MALONE. Where does he file it?

Mr. BENNETT. It is really in his own office. It is a matter of serving notice.

Senator MALONE. Serving notice on himself?

Mr. BENNETT. No. On the holder of the claim.

Senator MALONE. Then it can be done right there without any fanfare. We know where the office is located. If they think someone is doing a little damage he can just himself initiate the proceedings and not bother anybody. Is that right?

Mr. BENNETT. No. He has to give notice, serve notice.

Senator MALONE. Serve notice on the man that is doing the damage and doing it illegally in his opinion.

Mr. BENNETT. That is right.

Senator MALONE. What happens then?

Mr. BENNETT. This is all under regulation and not under statute, Senator. I would like to have Mr. Hoffman up here because he is familiar with the regulations from the first word to the last word.

Senator MALONE. Let him come up.

Mr. HOFFMAN. Senator, I was hoping I could avoid this shower.

Senator MALONE. You heard my question. We don't want to avoid anything.

How long have you been there?

Mr. HOFFMAN. I have been connected with mining work——

Senator MALONE. I am talking about the Bureau.

Mr. HOFFMAN. I started on August 1, 1913. That would be 42 years.

Senator MALONE. Continuously?

Mr. HOFFMAN. No, sir. I was out 12 or 13 years practicing law.

Senator MALONE. What class of work was that?

Mr. HOFFMAN. It was from 1920 to 1933.

Senator MALONE. Then you went back in?

Mr. HOFFMAN. Then I went back in.

Senator MALONE. I think you are fully capable.

Let me ask you this question :

Let us just talk about my own State of Nevada. Under the present law, if there is someone down in a mineral county that is violating a law and a complaint comes in—and you have got 5 or 6 of these bureaus out there. As a matter of fact, how any range grows is a little beyond me because there are so many of them tramping over it.

But you get this complaint: you decide it is a correct complaint. Where do you file it, and who files it?

Mr. HOFFMAN. I will have to lay aside the question for just a minute to present the background necessary for an understanding of my answer.

Senator MALONE. You will have to come back to it.

Mr. HOFFMAN. Yes, I have to come back to the question.

There are two kinds of what we call adverse proceedings against a mining company, that is, the initiated step to test the validity or invalidity of a mining claim.

One is by private contest. Any individual can come in and contest the validity of a mining claim. And the second is by a Government agent. The Government agent usually contests a claim only when another agency wants to bring up the claim because it needs the surface, such as for establishing a bombing area.

Senator MALONE. It doesn't make any difference.

Mr. HOFFMAN. It doesn't make any difference what the purpose is.

Senator MALONE. They get it anyway.

Mr. HOFFMAN. To answer your specific question, our procedure is to send the mining engineer out on a claim before anything is done.

Senator MALONE. This is when some other department wants it for another purpose.

Mr. HOFFMAN. Yes. Or when he applies for a patent, or if we start adverse proceedings, the first step is to send an expert, what we consider a qualified man——

Senator MALONE. I don't think you have got the question at all. Let's back up and start again. I know all about the condemnation proceedings. I know about the patent proceedings, having patented more land than a lot of you fellows have ever seen.

Mr. HOFFMAN. Eighteen years as a mineral surveyor.

Senator MALONE. I want to ask you what if a man has what you consider a nonvalid location and is doing some damage that you do not think should be done. Or maybe he isn't, but his location is not valid in your opinion. What happens? How do you attack it? How do you go about it?

I know about the rest of it.

Mr. HOFFMAN. We send him notice. We send the notice to the record owners of the mining claim as reflected in the county comptroller's office, preferring charges against the claimant. The usual charges are that the land is not mineral in character, or he hasn't pursued mining under the mining laws to a point of discovery, and possibly abandonment. Abandonment is rarely used because this is a hard one to prove.

We allow the mining claimant 30 days in which to answer such charge.

Senator MALONE. And he must answer.

Mr. HOFFMAN. He needn't, but his failure to answer is considered administratively an admission of the truth of the charges, whereupon we declare the claim null and void.

Senator MALONE. Then what do you do if he just stays there?

Mr. HOFFMAN. If he stays there?

After declaring the claim null and void he is a trespasser on public lands.

Senator MALONE. And you can remove him?

Mr. HOFFMAN. By proceedings.

Senator MALONE. Using the sheriff. That seems like a very direct procedure.

Mr. HOFFMAN. It is.

Senator MALONE. Do you follow that procedure?

Mr. HOFFMAN. We follow that as much as the congressional appropriation will permit us to do—and they are very meager.

Senator MALONE. Have you asked for additional appropriations to do that, for that specific purpose?

Mr. HOFFMAN. Yes, we have asked for additional appropriations. Congress has been very liberal with us at times, but not to the extent or in proportion to the number of miner claims that exist on the public domain.

Senator MALONE. All right, then. You have a definite remedy. The remedy is for your Land Office to file charges either that it is not mineral in character or he has not fulfilled his assessment work.

Mr. HOFFMAN. No, we can't file on that. The courts have held that it is none of our business about assessment work. It merely gives the right to an outsider, another individual, to jump his claim if he fails to do assessment work.

Senator MALONE. What can you do then? Can you only file on the reason that it is not mineral in character?

Mr. HOFFMAN. Not mineral in character, or he has failed to make a discovery or has abandoned the claim, he has not pursued it to discovery, charges along those lines.

As I say, the usual two common ones are that the land itself is not mineral in character, and that he has failed to make a discovery or to perform work leading to a discovery.

Senator MALONE. What is wrong with that procedure?

Mr. HOFFMAN. I find nothing wrong with it. I find not a thing wrong with it. And this law does not attempt to intimate that there is anything wrong with this procedure, this proposed act.

Senator MALONE. What does this law do then? What can you do on this mining claim the way it is? If you find he has proceeded in a proper manner and, in your judgment—and, of course, I would not trust the judgment of the Department as far as I could throw one of those baldfaced horses out there by the harness because I don't think they have ever discovered a mine, and they never will. The people that discover mines are people that keep digging where there isn't any ore. They are the kind of people that find the mines.

Mr. HOFFMAN. There is no question about that.

Senator MALONE. Those are the kind of people you want to throw off?

Mr. HOFFMAN. No, sir.

Senator MALONE. What can you do with a fellow that is out there digging away or who has done his assessment work and complied with

everything except, in the judgment of some bureau official, he has not discovered minerals?

Mr. HOFFMAN. You mean under the existing law?

Senator MALONE. Yes.

Mr. HOFFMAN. Let me say as a matter of policy—and let's talk about the present: Whatever complaints we may have had in the past, I like to speak about the people in charge now running the administration.

It has not been and it is not the practice, our policy, to go promiscuously throughout the public domain and charge mining locators with violations of the law. First of all, we don't have enough help to do it, and, secondly, we are not inclined to do it.

It is only when a certain use and an important use has a need of that particular land by another governmental agency that we are requested before they pay money out in buying up claims to determine their validity. And we often declare claims valid.

Senator MALONE. There is no question about the Government securing the claims. Every man at this table must have been through that. I have been through it 20 or 30 times.

Supposing we start building another reservoir on the Truckee River or the Carson River, which we hope to do, and there are claims for damages. You are called in, and you make an examination, and you evaluate that mine, that prospect.

Mr. HOFFMAN. Yes.

Senator MALONE. Then it goes to court, does it not, if it is a valid location?

Mr. HOFFMAN. Not necessarily.

Senator MALONE. Well, I know about that.

Mr. HOFFMAN. If you declare it valid——

Senator MALONE. I was trying to save time.

If you can get together with the fellow on the amount of money you pay him then and don't go to court.

Mr. HOFFMAN. That is right.

Senator MALONE. I am saying if he opposes you, however, you can go ahead and build the reservoir and take it into court, don't you?

Mr. HOFFMAN. Yes.

Senator MALONE. And he gets in damages what the court awards.

Mr. HOFFMAN. That is right.

Senator MALONE. Then there is no problem there, is there?

Mr. HOFFMAN. No, sir.

Senator MALONE. What I am trying to determine is where your problem is and what, in reality, you are trying to do.

I think some of you are very honest in this, but I think you are opening a gate that can be very dangerous to the mining people.

Mr. HOFFMAN. I appreciate that.

Perhaps you heard this morning, Senator Malone, what I think was a very explicit and able explanation of the purposes of the law and what it provides, by Mr. Holbrook. I don't want to be repetitious, to save time, but let me take a different angle.

We have had in the Congress in the 83d session certain legislation proposed both in the House and in the Senate which, from our point of view, would practically destroy the operation of the mines.

Senator MALONE. Do you think it has a chance to get by this committee?

Mr. HOFFMAN. I am trying to lead up to the reason for this bill.

Senator MALONE. We have got to take this or we are going to get something that will destroy them. Is that it?

Mr. HOFFMAN. You are anticipating, Senator. That is what I am leading up to.

Senator MALONE. I don't think you know anything about it.

It has got to get by this committee and I don't think it ever will.

Mr. HOFFMAN. Yes, but there are other problems.

Senator MALONE. Do you want me to tell these people up in my State that in order not to get something worse they take this?

Mr. HOFFMAN. It isn't exactly that. I wasn't trying to anticipate your—

Senator MALONE. As far as I am concerned, that is no argument.

Mr. HOFFMAN. All right, then, I will save my breath and won't make it.

Senator MILLIKIN. I think we should hear what the witness has to say.

Mr. HOFFMAN. We are faced with the problem of certain surface rights—

Senator MALONE. Now you are right back on the beam again.

Mr. HOFFMAN. I think Senator Malone would rather that I did not testify.

Senator ANDERSON. Senator Millikin and I would like to hear your statement on this. You say you are faced with certain surface rights—

Mr. HOFFMAN. Which are important both to governmental agencies and others. It was a problem that was almost unsolvable until we got together around the table with all interests.

You must give and you must take to reach a solution of the problem. So we came up—and when I say “we,” I mean the timber people, the American Forestry Association, representatives of the American Mining Congress, representatives of the Agriculture Department, and representatives of the Interior Department. We felt that there was almost no solution unless you actually abolished the mining law, on the one hand, or destroyed the right of the Government to its timber and forests, on the other.

So we took an example from what we had considered before of a conflict between two industries, the oil and gas industry and other leasable minerals industry and the mining industry, and after many, many discussions with Members of Congress we came up last year, after a 2-year study, with Public Law 585.

Senator MALONE. You say you came up with that?

Mr. HOFFMAN. I say the Government.

Senator MALONE. I don't think the Government did.

We had hearings with people all over the area out there. And, incidentally, we told some of you fellows.

Mr. HOFFMAN. Senator Malone, I just mentioned it was a cooperative effort by industry, the oil and gas industry and the American mining industry in cooperation with the Interior Department and with Members of the Congress who came up with some solution to resolve the conflict between oil and gas prospecting, on the one hand, and mining, on the other, on the same piece of land. And then when we were faced with the surface problem we looked for solutions. And

I might say that solution was suggested by the American Mining Congress representatives.

Senator MALON. Suggested by the American Mining Congress?

Mr. HOFFMAN. Yes, sir; at the American Forestry Association meeting last year.

Senator MALONE. The American Forestry Association. What is that association?

Senator ANDERSON. The witness was going to testify.

Mr. HOFFMAN. My own poor vision of it from the little I know of it is that it represents the timber industry and the other products of forestry throughout the Nation. I may be wrong.

Senator MALONE. The American Mining Congress represents mining the same way?

Mr. HOFFMAN. The American Mining Congress represents the mining industry.

Senator MALONE. You think that is true?

Mr. HOFFMAN. I do. I have great respect for the American Mining Congress.

Senator MALONE. So do I.

Mr. HOFFMAN. I have attended many meetings where you were present.

Senator MALONE. So do I. But I don't think they represent all the mining industry, and I don't think the American Forestry Association represents all of forestry.

Mr. HOFFMAN. That is true of almost any industry. Take the petroleum industry.

Senator MALONE. I am very interested in your statement that the American Mining Congress came up with this bill.

Mr. HOFFMAN. No. I said the representatives of the American Mining Congress.

Senator MALONE. That is what I am talking about.

Mr. HOFFMAN. At this meeting at the American Forestry Association they proposed a similar solution which resolved the difference between the oil and gas and mining people as to the surface rights.

Senator MALONE. They proposed this bill. Is that what you are telling me?

Mr. HOFFMAN. No, sir.

That was the result of study by representatives of the American Mining Congress and——

Senator MALONE. That is what I am talking about. But they came up with this bill?

Mr. HOFFMAN. And other representatives; not themselves.

Senator MALONE. They proposed this solution?

Mr. HOFFMAN. Yes, sir.

Senator MALONE. Thank you.

Senator ANDERSON. I think that last is a very interesting statement because I know that our committee staff and several office assistants of the Senators sponsoring S. 1713 worked with these organizations to do the preliminary work of drafting this bill. Now I hear for the first time that it was proposed by the American Mining Congress. I wish you would check your recollection because I know that you are 100 percent wrong.

Senator MILLIKIN. Who sponsored this legislation?

Mr. HOFFMAN. I want to correct my statement, if I may.

When I was asked a specific question as to who suggested it I tried to answer with emphasis that it was a cooperative effort on the part of every segment of industry and every segment of Government concerned with both mining and surface rights to come to some solution. And when I say it was proposed I meant to—

Senator ANDERSON. I don't know how many hours you yourself spent on it, but I do know how many hours my office and Stewart French of the committee staff spent on it. I don't know how many hours Mr. Bennett spent on it. I have a great deal of respect for him and I seem to say so openly all the time. Also people in the Forest Service, with whom I have associated when I was the Secretary of Agriculture, and people all through the Government worked on it.

Naturally, you consult experts on activities affected, because if you are going to get a compromise solution of something that is causing a great deal of trouble you have to look to all points of view. If people do not think the problem is a very serious one, I hope they go with Senator Barrett and Senator O'Mahoney, who are going to hold some hearings in Wyoming soon to try to decide about the situation in Pumpkin-Buttes. There the range is being torn up by thousands of uranium prospectors who have neither knowledge of prospecting nor uranium, but who are primarily interested in selling mining stock.

Senator MALONE. I think we made a mistake to let them go in on gas leases.

Senator ANDERSON. I don't think you did. I think it was good legislation. I think it proved that it was good legislation. It proved that multiple purposes would work. Here we come with another bill to provide for multiple purposes on the use of these areas and—

Senator BARRETT. As a matter of fact, Mr. Chairman, it has just worked the opposite in our State. They opened up all the lands that were under oil and gas leases to the mining people. That is where the trouble has arisen today. Upward of a couple of hundred thousand acres that were under oil and gas leases were opened to mining claims by reason of 585.

Senator MALONE. This is something that we could discuss in committee, but it seems to me that we could tighten the work and the information that is necessary for these fellows to file on these claims. We could make it a little easier for these people to check. That is, when you go on a mining claim in Nevada or Colorado or New Mexico, I would not take away his rights and let some bureau official who doesn't know a mine from a bale of hay anyway go in there and say "Well, this isn't necessary for this mine." He is only using two men. Maybe in 6 months he will have 500.

But tighten the work and the assessment work. Maybe increase the assessment work; I don't know.

Senator ANDERSON. I think anybody who has opened up a mine—and it has been my unfortunate experience to try a little bit of it—knows that you have to have timber for it. You know what you are going to have to do when you start out. I would a whole lot rather that the timber was being managed by the Forest Service than being logged off by an individual who had a claim for sand and gravel and proceeded to sell all the timber off the land.

Senator MALONE. We could discuss that.

Senator ANDERSON. I would like to say that there are 2 or 3 witnesses here from out of town to whom I am very anxious to give a chance to testify.

Senator MALONE. The witness this morning, Mr. Holbrook, made it very clear to me, and I think the record should be clear that what you are doing is changing it around. Now the department has to initiate the proceedings to get him off that claim whereas if you pass a bill like this it puts the shoe on the other foot. The people can go in and do anything they want to do if he does not come in and make his showing. The kind of people that I see who discover mines do not have the money to go in and make a showing on anything.

Senator ANDERSON. Then I don't understand why so many people who are real mine operators have written in in support of S. 1713. They say it is a wonderful thing for them.

Senator MALONE. I haven't gotten any letters from them. I have some letters that would be very interesting when the time comes. But there is a little bit of this pressure on.

Senator ANDERSON. I don't know anything about pressure.

Would it be agreeable, Senator Malone, to let Mr. Hagenstein testify and 1 or 2 others from out of town so that they can get on their way? Then we can call Mr. Hoffman at any time, and also Mr. Woozley.

Mr. Hagenstein, would you come up, please.

I apologize to you.

Senator MALONE. I would like to say at this point, Mr. Chairman, that I think this is a bill that should have hearings set in at least 3 or 4 different locations in the real mining areas to let the boys have their say.

Senator ANDERSON. It may be that such field hearings will be necessary. You will find when the time comes I am not going to be opposed to the fullest possible hearing.

You may proceed, Mr. Hagenstein.

STATEMENT OF W. D. HAGENSTEIN, MANAGING DIRECTOR, INDUSTRIAL FORESTRY ASSOCIATION, PORTLAND, OREG.

Mr. HAGENSTEIN. I am W. D. Hagenstein, managing director, Industrial Forestry Association, Portland, Oreg.

The Industrial Forestry Association represents the owners of more than 7 million acres of forests in the Douglas fir region of western Washington and western Oregon. Our members are in the business of producing logs and manufacturing lumber, pulp and paper, plywood, shingles, and other important wood products. In addition to managing their own forests for permanent operation of their industries, our members buy some timber from national forests and other Government lands. Therefore, we are interested in seeing Government forests managed under the best possible forestry. This means, first of all, the offering for sale each year of their allowable harvest under the principles of sustained yield.

At the same time we recognize that the Government forests are capable of supplying our economy with other resources besides timber. In accordance with the act of June 4, 1897, reference the national forests, we agree heartily with the Congress when it said then that the purpose of the national forests, among other things, was "to furnish a

continuous supply of timber for the use and necessities of the citizens of the United States."

Actually, the national forests have contributed all too little of their share of America's wood products as yet. This has been due principally to the lack of adequate timber access roads. Congress has reduced this problem substantially, however, in the last 2 years by appropriating for the first time funds for timber access roads somewhat commensurate with the needs.

I would like to present a tabulation which compares the estimated allowable annual harvest under sustained yield forestry with the actual annual harvest for the period 1945-54 in the Douglas fir region of western Oregon and western Washington.

With your permission, I would like to make that table a part of my statement.

Senator ANDERSON. It will be inserted in the record.

(The table referred to follows:)

*Annual log harvest and annual allowable harvest for national forests in Douglas fir region of western Washington and Oregon*¹

[M board feet, log scale]

Calendar year	Annual log harvest	Annual allowable harvest	Percent harvested of allowable harvest
1945.....	744, 500	1, 635, 500	46
1946.....	721, 300	1, 634, 400	44
1947.....	1, 111, 900	1, 706, 700	65
1948.....	1, 157, 500	1, 756, 200	66
1949.....	949, 600	1, 753, 200	54
1950.....	1, 229, 900	1, 757, 300	70
1951.....	1, 345, 800	1, 784, 300	75
1952.....	1, 487, 600	1, 980, 700	75
1953.....	1, 857, 800	2, 063, 300	90
1954.....	1, 965, 800	2, 231, 300	88
Total.....	12, 571, 700	18, 303, 400	-----
Annual average, 1945-54.....	1, 257, 200	1, 830, 300	69

¹ Source: Regional Office, U. S. Forest Service, Portland, Oreg., May 10, 1955.

Mr. HAGENSTEIN. This tabulation shows that the national forests in our area have harvested only 69 percent of what they should have in the last 10 years. Besides, inadequate timber access roads, one other thing has also acted increasingly in the last several years as a road-block to attaining the allowable harvest. That is the location of mining claims for other than their intended purposes. By that I mean that mining claims have been located in many areas of the national forests on discoveries of sand, gravel, rock, pumice, and similar materials. Some claimants have denied the Government access across their claims. This has prevented the Government from building roads to its timber. Other claimants have denied the Government the right to sell timber. This makes it difficult, if not impossible, in many areas for the Government to practice forestry.

To the extent the Government cannot practice forestry because of mining claims, or any other reason, the economy of the public-land States is adversely affected. When Government timber is not harvested to the maximum allowable each year everybody loses. Workers who depend on the forest industries for jobs lose employment. County governments lose their share of timber receipts to which they are en-

titled by law. Local merchants who depend on basic forest industry payrolls lose business. Transcontinental railroads and water carriers lose freight. Consumers of forest products everywhere lose by paying higher prices because of diminished current supplies. Lastly, and by no means the least important, the Treasury of the United States loses its timber receipts.

Our purpose in appearing before you today is to support enactment of S. 1713 which would provide multiple use of the surface of the Federal lands except national parks, national monuments, and lands set aside for or managed by the Government in behalf of the Indians.

The proposed bill is designed to protect the intent of the mining laws. It would eliminate the filing of claims for common structurals like sand, gravel, and pumice, and make them subject to disposal under the Materials Disposal Act. It would prohibit the use of mining claims for other than the usual mining activities. It would safeguard the right of the Government to discharge its obligation to manage its timber and other surface resources without interfering with mineral development and operation. It would guarantee access to Federal lands.

In short, the principles embodied in the bill would safeguard all elements of our economy which can utilize under good business management the resources of the Government lands. The bill would neither discourage the quest for minerals by denying the fruits of discovery to the prospector, nor allow spurious claims to deny the Government the right to have access across and management of the surface resources. Certainly this is an equitable arrangement for all interested parties including the consumer for whom the Government properties should be managed.

Because the similar problem of separation of the surface from the subsurface was solved by the enactment of the Ellsworth law, Public Law 477, 80th Congress, which covered the Oregon & California Railroad and reconveyed Coos Bay Wagon Road grant lands in western Oregon, we respectfully suggest to the committee that following the words "United States" in line 2, page 2, of S. 1713, the words "including for the purposes of this act, lands described in the act of August 28, 1937 (50 Stat. 874) and the act of June 24, 1954 (68 Stat. 270)," be added to the bill.

Senator MALONE. What would that do?

Mr. HAGENSTEIN. Senator Malone, the act of August 28, 1937, is the act under which the O. & C. lands are managed, and the act of June 24, 1954, is the one which solved the controverted land problem of which this committee has heard so much.

Senator MALONE. How are they managed, these O. & C. lands?

Mr. HAGENSTEIN. The O. & C. lands are managed by the Bureau of Land Management of the Department of the Interior.

Senator MALONE. Would you want those excepted?

Senator ANDERSON. You have recommended what the Department of the Interior also recommended; have you not?

Mr. HAGENSTEIN. Yes: I have.

Senator MALONE. Do we except those lands from this act?

Mr. HAGENSTEIN. No.

My suggestion is that, for the purpose of this act lands described in the O. & C. Act should be made subject to the provisions of this bill.

Senator MALONE. Go ahead.

Mr. HAGENSTEIN. Thank you.

Also we suggest that following the word "made" in line 22, page 3, of S. 1713 the words, "and except that revenues from the lands described in the act of August 28, 1937 (50 Stat. 874) and the act of June 24, 1954 (68 Stat. 270) shall be disposed of in accordance with the provisions of said acts," be added to the bill.

That is with reference to the same two acts that I referred to before.

These suggestions would have the practical effect of covering all Federal lands subject to mining location in accordance with the basic statutes covering their administration.

To demonstrate the necessity for enactment of the proposed bill, I would like to cite several instances where unpatented mining claims have prevented the Government from practicing forestry on the national forests in our region. The basic details are cited briefly. The full story is available from the United States Forest Service which furnished these cases on my request.

Case No. 1: The Tolt working circle of the Snoqualmie National Forest in western Washington contains more than a half billion feet of currently merchantable timber. The estimated annual allowable harvest is 6.1 million board feet. Because the working circle is literally plastered by unpatented mining claims, no Government timber whatsoever is being harvested at the present time. This means that 6 million board feet is being lost forever each year, because allowable harvest cannot be hoarded. If the Government is to practice forestry it must remove its allowable harvest each year.

Six million feet does not sound like a lot of timber, but at present prices it is worth \$120,000 where it stands on the stump in the woods.

Senator MALONE. Are these lands in the forest reserve?

Mr. HAGENSTEIN. Yes, sir; they are national forest lands of the Snoqualmie National Forest.

It means a logging and manufacturing payroll of \$200,000. It means a half million dollars worth of lumber at mill prices. It means 690 new homes. It means \$30,000 per year to King County, Wash., for roads and schools. It means \$90,000 to the United States Treasury. All this is lost to our economy when the Government is prevented from practicing forestry in this small area of one national forest.

The Forest Service has repeatedly sought permission from the mining claimants in this area to build roads and to sell timber standing on the claims. For the most part, permission has been refused. So the forest stands unharvested and unmanaged.

Senator ANDERSON. Does timber get overripe and spoil?

Mr. HAGENSTEIN. Indeed it does. And the area I am talking about is occupied by that kind of timber.

Senator ANDERSON. I have flown over a great deal of that timber way down low in a small plane and have seen evidences how at the very top you can tell it is going to waste by not being harvested. It reaches maturity and needs to be harvested then, does it not?

Mr. HAGENSTEIN. That is right.

Senator MALONE. Did I understand you to say the Government cannot build any roads through this area?

Mr. HAGENSTEIN. No, because the mining claimants would deny them access across the claims.

Senator MALONE. Did you ever hear of condemnation proceedings if you want to build a road?

Mr. HAGENSTEIN. Yes. Of course, the Government could, if it wanted to, do that. You understand, of course, that many of the roads built in connection with national forest timber sales were built by the successful bidder for the timber as a part of the contract. He would have the same right, I presume, of condemnation.

But when you are selling timber in relatively small quantities—in our part of the country at the present time the average for these forest timber sales is 4 or 5 million board feet—don't you make it difficult if you require the timber sale purchaser to go to the trouble of condemnation in order to get rights-of-way across mining land?

Senator MALONE. I am not making a point of it. I wanted to establish that that could be done.

Couldn't the Government do it or establish it right before they sell it? You know when you condemn a thing you do not wait until the thing is settled. You go ahead and build your road. And then on examination or court evidence, if it has not a value, you don't pay for it, or very little.

Mr. HAGENSTEIN. You are getting into a field of law, Senator Malone, and I, like you, am an engineer and forester. I am not competent to discuss that.

Senator MALONE. You do not have to go very far in the law to know that the Government condemns anything and goes into court and pays the court value afterwards.

Senator ANDERSON. Yes, but a logging trail through a national forest by condemnation proceeding would be a weird operation because they don't go in the same way.

Senator MALONE. We can discuss this in committee, but I wanted to ask this witness if he was familiar with the fact that that can be done. It might be a way of bringing it out that these fellows have no mineral if they haven't.

That could be done, could it not, to bring it out that they have no mineral, if what you say is true?

Mr. HAGENSTEIN. I presume we could, Senator.

I was going to agree with the chairman that it is a cumbersome procedure.

Senator MALONE. I want the facts brought out.

Mr. HAGENSTEIN. I want to give them to you.

Senator MALONE. I know you do and I want to bring this out. The fact that it can be done through an intergovernment operation; in other words, you must have a Bureau of Land Management office in Oregon?

Mr. HAGENSTEIN. Yes, we do have.

Senator MALONE. They can initiate these proceedings on your own complaint or their own complaint, anything they want to do, can they not?

You heard this testimony a while ago?

Mr. HAGENSTEIN. I presume they can.

Senator MALONE. Have they ever done that?

Mr. HAGENSTEIN. Not to my personal knowledge.

Senator MALONE. Go ahead.

Senator BARRETT. Mr. Chairman, that is precisely the question I have in mind. I want to know what proceedings could be instituted

under existing regulations to take care of case number one that the witness just testified to.

Are you prepared to answer?

Mr. HAGENSTEIN. No, sir.

Senator BARRETT. Is there anybody here that can answer?

There is not anything they can do, in my judgment.

Senator ANDERSON. Mr. Hoffman?

Mr. HOFFMAN. I do not think we can do anything under existing law unless we attack the validity of the mining claims.

Senator ANDERSON. We are trying to keep away from attacking the miners' claims.

Senator BARRETT. The complaint is that there is nothing being done, it is standing there rotting.

Mr. HOFFMAN. The only way we can do is to have the forest management people challenge the claim and if they are valid, there is nothing we can do.

Senator MALONE. There is a blanket statement made that they are not valid. If no one has examined them, how do you know?

Senator ANDERSON. I do not believe there is a statement made that they are not valid.

Mr. HAGENSTEIN. I did not say that, Senator Malone. I said in response to the Forest Service and, mind you, these are all patented claims for permission to build roads either with Federal money or as a part of the timber sale contract across these claims to the forest timber that, in most cases, they have been denied permission to do it.

Senator BARRETT. It is a clear situation; we have to have this bill we are discussing here today.

Senator ANDERSON. The Government cannot go in to condemn its own property. The Government owns the property. The man has not yet reduced the claim to a patent, and yet he is in a position under the mining law, the present mining law, able to keep the Government from binding an access road to its own timber.

Senator MALONE. That I would like to see demonstrated.

Senator ANDERSON. It has been demonstrated.

Senator MALONE. We cannot go in and condemn the land and pay his own price.

Senator ANDERSON. Precisely.

Mr. HAGENSTEIN. I have a folder full of cases like that.

Senator MALONE. Did you ever try to go to court with it?

Mr. HAGENSTEIN. I cannot say that they have, but I think the chairman has made a good point.

Senator MALONE. I wish you would unburden your briefcase and give us a case where they tried to build a road and were prevented.

Mr. HAGENSTEIN. In response to Senator Malone's request, I would be glad to do that if I can have permission to finish my statement, which is very short.

Senator LONG. Go ahead.

Mr. HAGENSTEIN. On October 8, 1953, the Willamette National Forest in western Oregon sent out a notice of proposed timber sale to prospective bidders covering a sale designated "Deer Creek Sale No. 2." The proposed sale had been laid out on the ground in the summer of 1953.

On December 21, 1953, seven mining claims were filed in the area, and their location notices were dated October 25, 1953.

These claims cover two existing rock pits which had been used for several years by Government timber-sale purchasers for road-surfacing material. Also, the claims overlapped part of the area laid out in the timber sale and covered another gravel pit along the main timber-access road of the proposed timber-sale area.

One of the claimants stated that he desired to sell rock to the successful bidder of the proposed sale. Naturally, the Forest Service did not consummate the timber sale because the mining claims covered the majority of the timber to be sold and tied up the needed road-building material. Another area of national forest, therefore, is unharvested and unmanaged.

Case No. 3—and I think this is one of the most flagrant that I have encountered. A Eugene, Oreg., logger had an experience in January of 1955 which shows the necessity for reenactment of S. 1713 if the Government is to manage the surface resources of its national forests.

A man telephoned the logger to say he was going to file a mining location on rock pits which the latter was using in connection with a national-forest timber sale. The logger did not feel he should pay anyone for the use of gravel from national-forest land which he was using for ballasting roads used in the harvest of Government timber.

To protect himself, he filed a mining claim on the rock pits himself. Now he gets his rock without having to pay tribute for it. This indicates serious abuse of the opportunity to locate mining claims.

Taking these cases and multiplying them by hundreds of examples which could be given from the Western States indicates the urgent need for enactment of S. 1713. The bill will protect the equities of legitimate prospectors and miners. At the same time it will allow management and use of other resources of Government lands vital to our economy.

We want to give our unqualified support for the multiple use management of all the resources our public lands can yield to the Nation's economy.

The authors of the various bills embracing the present proposal should be congratulated on their joint endeavor to rectify the ills caused in the past few years by abuse of the privilege of all Americans to seek, prospect, locate, and develop bona fide mineral discoveries on Government lands.

We hope that S. 1713 will be reported favorably by the committee and enacted promptly.

That is all of my prepared statement.

Senator ANDERSON. Would you at a subsequent date supply us with a few more of these cases?

Mr. HAGENSTEIN. I can. I have one other thing which is not in my prepared statement which may indicate graphically the problem.

I am sorry I only have four copies of a map here which shows the situation. What this shows, if I may look on with Senator Millikin here, it shows an area of national forest land with a timber sale that has been laid out and the orange-colored squares running at other than cardinal directions are mining claims, all unpatented claims.

These claims lie across the natural topographic routes of roads into the timber sales areas bounded by green and prevent access unless the claimants are willing to allow the Forest Service or the successful bidder on timber sale to cross those claims with a road.

Further, the claimant can also preclude the Forest Service from selling that portion of the timber inside those cutting areas which are covered by the claims.

Look at the little tiny white pieces in the claims left, a few pieces of land, mind you, of very rough mountainous country. Who is going to be able to manage it?

By law, the Forest Service is obligated to manage it but they cannot when you have a hodgepodge thing where the rights of the parties are not clear.

Senator MALONE. Is there any Federal law or any State law that would apply to all the timber where it must be cut on a crop basis?

Mr. HAGENSTEIN. The acts of June 4, 1897, which is the organic act of establishment of the national forest, indicate that and the O. and C. Act which covers it.

Senator MALONE. Does not Oregon have some kind of law; it seems to me in 1938 I had a section on forestry and you had a very good State law there on a crop basis. You could make the private owners come in but you could not the State owned land.

I understand that since that time the private owners have nearly all complied with that to a great extent.

Senator ANDERSON. Is it not true that the private owners are the first ones that come in? They are the best foresters that you can imagine.

Mr. HAGENSTEIN. Being the chief forester for the Douglas Fir Industry, Mr. Chairman, I would like to say we think we are doing a good job, not that we do not have further to go.

We want to see the United States Government do it, too.

Senator MALONE. Is there a Federal law now that does the same thing with those forest lands that is effective?

Mr. HAGENSTEIN. Well, the law, the act of June 4, 1897, and the act of August 28, 1937, the first covers the national forests and the second, the O. and C. lands, establishes the policy wherein the forest lands of the United States would be managed permanently.

Senator MALONE. Who owns the O. and C. lands?

Mr. HAGENSTEIN. They belong to the people of the United States.

Senator MALONE. All right.

How does it come that we passed a law that covered only the O. and C., and not the remainder of the lands?

Mr. HAGENSTEIN. That is due to the fact that the O. and C. lands were once privately owned. As a result of a land grant made to the Oregon-California Railroad Co. in 1866—

Senator MALONE. They sold them to the Government?

Mr. HAGENSTEIN. No, sir; what happened, and it is a long involved thing which I am sure you have heard discussed in this committee many times.

Senator MALONE. I have heard it discussed but it involved Oregon and we had an Oregon Senator here and we should still have him. I assumed he knew what he was talking about so I never paid much attention to it.

Mr. HAGENSTEIN. There is no one who knows more about it than Senator Cordon with regard to the O. and C. lands.

Senator MALONE. Tell us, since he is not here, just what jurisdiction the Government took there and how they handle the O. and C. lands.

Mr. HAGENSTEIN. What happened was the railroad company to which the grant was made in 1866 defaulted on some of the terms of the grant under the act of Congress which granted them the land.

Following a litigation which went to the Supreme Court of the United States some time around 1912, an act was passed in 1916 re-vesting the land, the title to the land, in the United States. Those lands then were subject to disposal under the land laws of the United States, such as the Homestead, Timber, and Stone Act, and others I presume until 1937, when the act of August 28, 1937, Public Law 405, I forget the Congress, was enacted, known as the O. and C. Act, which established management on a perpetual basis in the interests of the communities on those lands.

Senator MALONE. That was a Federal law?

Mr. HAGENSTEIN. That was a Federal law.

Senator MALONE. Is there anything to keep us from extending this law if necessary to protect the remaining Federal forests there?

Mr. HAGENSTEIN. Well, I think the other Federal forests, namely, the Federal forests, are covered by the organic act.

Senator MALONE. Crop basis?

Mr. HAGENSTEIN. Yes, sir. Insofar as I know, it is the policy of the United States, established by statute, that all of the forest lands belonging to the Federal Government must be managed in perpetuity.

Senator MALONE. Then when these people go into a forest reservation to locate a mining claim, for all intents and purposes they own the timber?

Mr. HAGENSTEIN. If the claim is taken to patent.

Senator MALONE. If the claim is taken to patent.

Mr. HAGENSTEIN. Then they acquire it.

Senator MALONE. But they do not have it until it is patented; they do not have the management of the timber or grass that is on the land?

Mr. HAGENSTEIN. Well, I do not think they have title to it. I do not think they can dispose of it except that miners can use part of the timber necessary in the development of a claim.

Senator MALONE. We have heard the complaints here that they sell the timber; it seems to me that I have heard complaints. They would sell the timber on the claim and then they located the claim.

You mean there is no such procedure?

Mr. HAGENSTEIN. I do not think, and here again, not being a lawyer I am not competent to interpret the law, but I do not think the holder of an unpatented mining claim has the right to sell anything on the surface.

Senator MALONE. You have had no trouble in that where he did sell it? I want to get my own thinking clear.

Mr. HAGENSTEIN. I do not think so because I do not think he can sell the surface resources until it is patented.

Senator MALONE. But he can take what timber he needs to work that claim or group of claims?

Mr. HAGENSTEIN. Right.

Senator MALONE. That is the only complaint you have had?

Mr. HAGENSTEIN. That is not the complaint.

Senator MALONE. I mean as far as the ownership and use of the timber is concerned.

Mr. HAGENSTEIN. The only complaint we have is that insofar as the surface is not needed for the legitimate development of the minerals.

Senator MALONE. He does not try to dispose of this timber; all he does is hold it?

Mr. HAGENSTEIN. And prevent the Forest Service from managing it.

Senator MALONE. Have you ever tried to deal with these people that all you want is to take a crop off from year to year?

Mr. HAGENSTEIN. No; because private parties cannot deal. It is a matter of the Government dealing with them, because the land is under the administration of the Government.

Senator MALONE. Has the Government tried to?

Mr. HAGENSTEIN. Oh, yes; many times.

Senator MALONE. They will not let you harvest?

Mr. HAGENSTEIN. The Forest Service has repeatedly in these areas where they want to develop the timber requested access across these unpatented claims and has sought to sell the timber, and in many instances, although not all, it has been denied the permission by the claimant.

Senator MALONE. If you merely told the claimant that all you wanted to do is harvest?

Mr. HAGENSTEIN. Of course, in our country that means clear cutting. In our country we clear cut.

Senator MALONE. You cut it all off?

Mr. HAGENSTEIN. That is right. We take relatively small clear-cut setting and leave seed sources around it. Only in the case of failure of natural reproduction do we resort to planting.

Senator MALONE. How long does it take the crop to grow? Is it 70 years, 50 years, or 40?

Mr. HAGENSTEIN. A good average for our region would be 80 years.

Senator MALONE. Thank you.

Senator ANDERSON. Because I am going to try to get this map reproduced for the hearings by crosshatching, if you do not mind, we would like to have it.

Mr. HAGENSTEIN. Any use the committee cares to make of it, Senator, I would be pleased to have them do it.

Senator ANDERSON. I understand these portions are mining claims.

Mr. HAGENSTEIN. The ones that are colored.

Senator ANDERSON. Perhaps it will show differently when we reproduce it.

(COMMITTEE NOTE.—The map appears at the conclusion of Mr. Hagenstein's testimony.)

Senator ANDERSON. These are tracts of timber that the Forest Service desired to sell in what year, 1953, for example?

Mr. HAGENSTEIN. 1954.

Senator ANDERSON. 1954.

Mr. HAGENSTEIN. Right.

Senator ANDERSON. Were they able to sell them?

Mr. HAGENSTEIN. No.

Senator ANDERSON. The sale of the timber was blocked.

Mr. HAGENSTEIN. The sale was canceled for two reasons: One was they could not get access across the claims to reach the settings and they could not sell that portion of the timber on the settings which was based in a mining claim.

Senator BIBLE. Mr. Chairman, might I ask what type of mining claims they were? Was it sand, gravel, gold and silver, lead, zinc?

Mr. HAGENSTEIN. I think these were mineral claims other than for the common structural materials. I do not know what type but for some ore.

Senator BIBLE. Was there active mining operation on these claims?

Mr. HAGENSTEIN. No.

Senator BIBLE. Inactive?

Mr. HAGENSTEIN. Right.

Senator MALONE. They did assess them?

Mr. HAGENSTEIN. I really have no knowledge of that, Senator Malone.

Senator MALONE. Do you have any difficulty in any of our lands in Oregon except in the forest reserves in this connection?

Mr. HAGENSTEIN. No. The matter on the O. and C. lands was a problem until 1948 but, as I discussed it, I referred to the Ellsworth law; that was taken care of by that law. Since that time the Bureau of Land Management has had neither difficulty in getting access nor in selling timber on the land.

Senator MALONE. Do you have any objection from what you know about this matter of having the law passed confined to the Forest Service lands or Government reservations?

Mr. HAGENSTEIN. It seems to me it should embrace all that portion of the public lands which are suitable for multiple use, excluding as it does national parks, monuments.

Senator MALONE. I am asking you; you are complaining about Forest Service lands.

Mr. HAGENSTEIN. Basically, because that is the problem in our part of the country.

Senator MALONE. And monuments and Government withdrawal. Confined to Forest Service and Government lands, you say you would have no objection?

Mr. HAGENSTEIN. I have no objection.

Senator MALONE. We have 5 million acres of this forest reserve down in our area and all we need is forests.

Mr. HAGENSTEIN. I have been in some of it and it is single-leaf piñon.

Senator MALONE. We have none.

Mr. HAGENSTEIN. Someday it will be valuable.

Senator MALONE. It will be 1,000 years before it grows 2 inches.

Mr. HAGENSTEIN. It grows slowly.

Senator MALONE. When we get this cycle, whatever it is, there are redwood forests up in Nevada where the rainfall is an inch and a half, so there is a cycle. Maybe we could do a little mining in the meantime if we do not have quite so much of this interference.

Mr. HAGENSTEIN. I want to make it very clear, Mr. Chairman and gentlemen, that our industry is certainly not seeking anything, recommending, the enactment of such legislation as you have before you to the detriment or legitimate location and prospecting of the minerals of this country.

We think that is an important part of our economy to keep our mineral supply well known by giving people the right and encouraging them to have the right to find the fruits of their discovery when they find one.

Senator ANDERSON. You do not want to take one legitimate claim from one legitimate miner?

Mr. HAGENSTEIN. Not one.

Senator MALONE. In the first instance, in the first paragraph of the bill you want to take the stuff that you name out of the mining category?

Mr. HAGENSTEIN. And put it under the Materials Disposal Act, which is in accordance with the way the bill is presently drafted.

Senator MALONE. I read it.

Mr. HAGENSTEIN. Yes, sir.

Senator ANDERSON. Thank you very much.

Mr. HAGENSTEIN. Thank you, gentlemen.



Senator ANDERSON. Next we have Perry A. Thompson.

**STATEMENT OF PERRY A. THOMPSON, SECRETARY-MANAGER,
WESTERN LUMBER MANUFACTURERS, INC., SAN FRANCISCO,
CALIF.**

Mr. THOMPSON. Thank you, Mr. Chairman and gentlemen.

I came from San Francisco for the purpose of talking to you for 4 or 5 minutes, possibly 10 at the most. I shall not read all of this report because I realize your time is limited.

Senator ANDERSON. Would you state your name and present position for the record?

Mr. THOMPSON. My name is Perry A. Thompson, secretary-manager of the Western Lumber Manufacturers, Inc., of 681 Market Street, San Francisco, Calif.

Western Lumber Manufacturers is an association of sawmill companies, each of whom purchases all, or a substantial part, of the timber it cuts from the State or Federal public lands and forests.

These companies own and operate more than 40 sawmills, 16 wooden-box factories, several moulding and door factories, and a number of miscellaneous wood-using plants.

In 1954 these companies purchased more than 350 million board-feet of timber from the national forests, public lands, and Indian lands in the State of California and in southern Oregon. They paid more than \$4 million into the Public Treasury for this timber.

During the first quarter of this year, 1955, these companies bought 108 million board-feet of timber at an average of \$15.25 per thousand feet. Total to be paid into the Public Treasury as the timber is harvested will be about \$1,650,000. It is expected these companies will buy around \$5 million worth of public timber in 1955.

Most of our member companies have, at some time or another, suffered at the hands of an unpatented mining claim holder. I could furnish you many case histories showing misuse of the mining laws for the purpose of collecting tribute from sawmill companies.

To save your time I shall include many case records in the more complete data which I shall ask you to insert in the record.

Senator ANDERSON. Do you have that with you?

Mr. THOMPSON. I have it with me.

Senator ANDERSON. The material referred to appears at the conclusion of Mr. Thompson's direct statement.

Mr. THOMPSON. Thank you.

I do want now to read short excerpts from just two letters received very recently, which are typical of the many which will be included in the data I shall submit.

This one is from a large company operating in a national forest east of Sacramento, Calif.:

1. At the present time our timber harvesting operations are being seriously hampered because of the presence of mining claims of questionable value on hundreds of acres of productive timberland. Many of these claims have not been worked for decades, yet millions of board-feet of timber growing on them cannot be cut because of claimants who will not waive the timber-cutting rights.

As you know, I don't think it's fair to the lumbermen or the people to continue allowing overripe timber to be tied up on such mining claims. In our current operating area there are about 26 million feet of timber tied up in claims which are not being worked at all.

Senator ANDERSON. You heard the question I addressed earlier, the question about timber becoming overripe and spoiling? Is that your experience?

Mr. THOMPSON. In any so-called mature forest, a certain amount of timber is ripe and overripe, and there is some constant deterioration; that sort of timber is more subject to bug damage and windrow and other types of damage than the younger timber and there is a constant loss.

Senator MALONE. Where is that timber located?

Mr. THOMPSON. In the Tahoe National Forest in California.

Senator MALONE. Has that been your experience that all of the trouble you have had is in the forest reserve?

Mr. THOMPSON. Principally, it happens that the companies for whom I work are operating in the forest reserve although they buy some from the Indian lands and some from the Bureau of Land Management.

Senator MALONE. But they are reservations?

Mr. THOMPSON. National forest, primarily.

Senator MALONE. Thank you.

Mr. THOMPSON. Two, this company operates in Northwestern California:

In 1952-53 we found that two different mining claims near our operation were on the same location as our planned access road over some public land. The Bureau of Land Management informed us that any right-of-way obtained from them was subject to existing valid entries, and that if we asserted that a mining claim was obviously invalid or fraudulent, that it was up to us to initiate the necessary court action to prove our assertion and remove the claimant. It appeared that both the claims were quite obviously invalid and/or fraudulent, and that one in particular was taken with the idea of blocking a necessary right-of-way in order to collect tolls.

We had to retain a mining engineer as well as our attorney to counsel us on the matter, for both claimants were adamant about their rights and privileges to collect damages. The mining engineer confirmed our opinion that the claims appeared invalid, and that the assessment work had never been done at all on one claim as stated in the proof of labor, and not done in the spirit of the law on the other claim.

Eventually, we called one of the claimant's bluff, the one who had perjured himself with a false proof of labor, and went ahead without his permission. The other claimant hired a prominent attorney, noted for his familiarization with mining and land laws, and stood pat. Eventually, this claimant "shook us down" for approximately \$700.

Senator MILLIKIN. What do you mean by "shake you down"?

Mr. THOMPSON. Sir, I am quoting from this letter.

Senator MALONE. Who wrote the letter?

Mr. THOMPSON. The letter was written by the forester for this private company.

Senator MALONE. Did he have experience in mining, this forester?

Mr. THOMPSON. No, sir; I do not suppose so.

Senator MALONE. Have you had some?

Mr. THOMPSON. I have had some.

Senator MALONE. Are you capable of determining whether there is a valid location?

Mr. THOMPSON. No. These people hired a mining engineer to determine that for them.

Senator MALONE. Go ahead.

Mr. THOMPSON (reading):

Other costs incurred brought our cost of this 1,000 feet of right-of-way on public land to approximately \$1,000. To have gone to court to invalidate these claims would have cost us more than that, and with the present mining laws as ambiguous as they are, it is questionable if we would have been successful.

Senator MALONE. Right at that point the testimony has been clear there that the Department of the Interior has the right to initiate such a claim and it is handled then by the Department of the Interior and it might be the Forest Service in this case which would be the Department of Agriculture, but there is a way of doing this.

Do they ever make any attempt to clear the way for you?

Mr. THOMPSON. Who, sir, the Bureau of Land Management?

Senator MALONE. Yes.

Mr. THOMPSON. I could not say about the Bureau of Land Management because so few of our companies buy timber from them. But the Forest Service has made many attempts, yes, to get from the claimants a right to or privilege to cut the timber.

Senator MALONE. What you say, you have made a very serious claim here about shaking you down. If there is any such maneuvering, the Government has a recourse.

I would like to know if there has been any attempt by the Government to protect these men that they sell this timber to, like your companies. You are making a very extravagant statement.

Mr. THOMPSON. I am just reading a letter from the company.

Senator MALONE. I am glad you made that clear.

Mr. THOMPSON. That is made clear at the beginning.

Senator MILLIKIN. They may regard as a shakedown anything that interferes with what they want to do?

Mr. THOMPSON. That is right.

Senator MILLIKIN. It may not have the meaning that you and I attribute to a shakedown.

Senator ANDERSON. I think if we wanted to, we can get ample testimony from the Forest Service that one person after another comes in and files these claims.

Mr. THOMPSON. We can produce the writer of this letter and the man took exactly that position.

Senator MILLIKIN. If the right is a right——

Senator ANDERSON. It is not a right.

Senator MILLIKIN. I say, Mr. Chairman, if they consider they have a right and they exert their right, they are not putting on a shakedown.

Senator MALONE. I would like to say that the Forest Service, we have had trouble with them for 30 years that I am familiar with in this arbitrary management of range. None of us like it but they are there and if we get into the matter of these bureaus' operations, that is going to be something.

Senator MILLIKIN. As I understand, you are just reading from a letter?

Mr. THOMPSON. May I proceed?

Senator MILLIKIN. Yes.

Mr. THOMPSON (reading):

We are facing a similar experience again this year in a different area, and I can see where it will happen again periodically as our logging operations move around. We shudder to think of the consequences as more unscrupulous people become familiar with this gimmick for extorting money from loggers. Without corrective legislation, it appears that our only salvation would be for us to be first to file questionable claims on the location of our future roads.

Senator MALONE. Who wrote the letter?

Mr. THOMPSON. A forester for one of our logging companies.

Senator MALONE. What is his name?

Mr. THOMPSON. Nicholson.

Senator MALONE. Is his name here?

Mr. THOMPSON. No; it is not. I will furnish a copy.

Senator MALONE. Yes.

Mr. THOMPSON. Now, I want to make it very clear that the lumbermen I am representing are businessmen. They have very large investments in plants, machinery, transportation of equipment, logging equipment, and timber. They pay large taxes into the county, State, and Federal treasuries. They employ thousands of people. They produce many millions of dollars' worth of woods products annually.

These men believe in the principles of private industry. Most of them began their careers without a dollar. Through their initiative, hard work, skill, and knowledge they have become proprietors and producers of jobs and materials.

These men represent a cross-section of the many lines of business on which our citizens depend for manufactured products. These men would be the last to put one stone in the way of another legitimate industry. They certainly recognize the great and growing importance of the mining industry.

They know full well that minerals are not renewable resources, like the timber they harvest, and that the continued prospecting and search for minerals must be encouraged. They have no quarrel with any legitimate prospector or miner; rather, they want to encourage and assist the individual whose plan is to discover, extract, and/or process into useful products the mineral wealth of our public lands.

But these lumbermen have been observing for years the practices of the many unscrupulous citizens who may call themselves miners or prospectors, but have been using the mining laws to get possession of parcels of public lands for purposes other than the extraction of minerals.

You will note I said "possession" of the lands. I did not say "get ownership" since, in most instances, title is not sought because of known doubt or certainty that the land would not qualify for patent under the mining laws.

However, since sand, gravel, pumice, and building stone, and so forth, have been held subject to appropriation under the mining laws, the nonminer landseeker has not had to worry very much about discovering valuable minerals on the land he covets. Sand, gravel, and building stone can be found on most any mountain creek or river and can be used as justification for a filing. A filing is all that is needed by the nonminer. I speak only of the nonminers.

Senator MALONE. Speaking of the nonminer or the miner?

Mr. THOMPSON. Speaking about the nonminer, not the legitimate one. With a filing he has been able to control use of all the land resources and land surface.

Up to this time the mining industry has contended that all remedies necessary to control the bogus miner were available in the existing laws; it has been said many times that Government agencies could control this situation if they wanted to. So the mining industry has resisted any change in the out-of-date mining laws.

I cannot believe they have fully realized the extent and character of the many abuses which have been, to my personal knowledge, practiced for more than 30 years. It has taken a lot of complaining, a lot of publicity, a lot of investigating, some by Congress, to fully open their eyes and understanding of the situation.

We are thankful the legitimate mining industry has at last decided something must be done to protect itself, to protect the rights of other industries and the public welfare.

This legislation is the outcome of joint effort by legitimate and broadminded mining men and their legal advisers, who represent the real mining industry, a segment of it at least, and public officials and foresters.

This legislation, if passed, may not prove to be the final and complete answer, but it is a long, and long delayed, step in the right direction. This legislation safeguards the rights of every bona fide prospector and miner.

Legislation must be enacted into law at this session of Congress. Time is of the essence of the problem.

The intensive search for uranium, which is taking thousands of inexperienced people into the fields and public forests and wild lands, cannot be properly directed and controlled under the old outmoded mining law. The situation is critical.

First, sand, stone, gravel, pumice, pumicite, cinders, and clay must be reclassified as "nonminerals." They can be disposed of in a practical manner under leases and special-use permits issued by the proper administrative agencies.

Second, the rights of the claimant of every mining claim must be limited to the right of occupancy solely for the purposes of prospecting for minerals and for extracting valuable minerals from the claim. Prior to patent, his use or control of the land surface of the claim and of the nonmineral resources of the land should be limited to those uses necessary to the process of extracting minerals.

We believe the legislation, as written, will accomplish these purposes and that it should be promptly passed.

We know the people engaged in mining and prospecting are divided in this matter. At least some legitimate miners, those with investments and experience, and the producers of minerals, favor this legislation.

On the other hand, many less responsible prospectors and pseudo-prospectors, those out for a quick "buck," those who are not too particular how they get it, and who are the ones who have for so long brought the legitimate miners into bad repute will, undoubtedly, make an effort to defeat this legislation.

We ask that you listen carefully to these people. We ask also that you study the documentary proof which will be presented to you by those in favor of the passage of S. 1713. When you do this, we are confident your committee will endorse this legislation and vigorously press for its early enactment by this Congress.

I could read the rest of my paper, sir, but I believe that covers the essential points we wanted to make.

I should like to offer these additional exhibits for your record if you would like to have them.

Senator ANDERSON. I think what we will do is accept them for the record and ask the staff to go through them and see how many of them need to be actually attached to the record.

Mr. THOMPSON. A great many of them I am sure will be duplicated by other people who are introducing evidence.

(The information referred to follows:)

(COMMITTEE NOTE.—The material submitted by Mr. Thompson consists of the following packets which are on file with the committee and are a part of its official records of this hearing.)

Exhibit No. 1. Title: "Packet of Material on Application of Mining Laws to National Forests," prepared by the United States Forest Service upon request of a special subcommittee of the House Committee on Agriculture, 82d Congress. It is dated August 1952.

Page 5, Summary of Mining Claims on the National Forests, national statistics are given as of January 1, 1950. For the State of California the up-to-date record is:

Number of mining surveys-----	21, 000
Acres of national forest land claimed-----	602, 000
Percent producing minerals-----	1
Percent considered valid-----	26
Volume timber on claims: 3½ billion board-feet.	
Current value of the timber, \$50,000,000.	

Exhibit No. 2: This is copy of a "Report on the Problems of Mining Claims on the National Forests by the National Forest Advisory Council," made for the Secretary of Agriculture by his citizen advisory group, and dated January 1953.

Beginning on page 55 and running to page 125 are more than 100 case histories illustrating the conditions which this legislation is designed to remedy. They are "must" reading. Only in this way can one get an understanding of the seriousness of this matter and of the great need for prompt remedial measures.

Exhibit No. 3: This is a collection of official records and papers having to do with the activities of prospectors and miners. This record is fully documented, and is convincing proof that this legislation is needed.

Exhibit No. 4: Excerpts from editorials concerning the mining law problems, clipped from newspapers in the county and mountain districts of the State of California.

Exhibit No. 5: Samples of mining claim conflicts in the national forests in California.

(Exhibits Nos. 1, 2, and 3, have also been entered in the record of the House hearing on H. R. 5891. Exhibits 4 and 5 are set forth below.)

EXHIBIT No. 4

SAMPLE EDITORIALS IN CALIFORNIA PAPERS

Modoc County

The legislation (S. 1713 and the companion House bill H. R. 5891) is actively supported by the American Mining Council. Last week the Plumas County chapter of the Western Mining Council voted to favor the bills.

Lumbermen and livestock men in the State and in Modoc County have been seriously concerned about the effect numerous claims might have on their public lands. The separation of surface rights from mineral rights is a step in the right direction—in keeping with the democratic principle of multiple use of public lands. This legislation reflects credit on the mining industry and all who assisted in writing it.

Placerville

A measure before Congress to correct widespread abuses of mining claim laws deserves wholehearted support of every citizen in Eldorado County.

These abuses by those seeking to acquire and control public lands for nonmining purposes pose a serious threat to our country's basic economy—our great recreational potential. If enough of these phony claims are established and our fishing streams, our camping and picnicking areas, our lake shores and beaches, our vast timber resources and our range and forage will be denied the public's use.

We vigorously support this legislation and urge voters in the county to give it the strongest support possible.

Bakersfield, Calif.—Kern County

For many years, an abuse of the terms of Federal mining laws has turned thousands of acres of choicest public lands into the possession and profit of individuals who have taken advantage of the loopholes to perpetrate this condition. Agencies administering these lands have been helpless to correct the wrongful possession and use.

Proposals, legislation introduced in Congress have been made to correct this. They have backing of Congressmen best acquainted with the situation, the USDA, the Forest Service, the American Forestry Association, and others.

In view of the commendable provisions of the measure and the benefits it will bring, support of its passage should be expressed from local organizations affected by management of the national forests, and there is scarcely a community in the West that is not in this category.

FOOTHILL INDEPENDENT, GLENDALE, CALIF.: DREAM LAND CAN BE YOURS; FILE A CLAIM

(By Jim Kenner)

Land today is a valuable proposition. In many cases more costly than the home or business erected upon it. Rates vary from a modest few dollars an acre for barren desert to \$10,000 a front foot for a number of glamorous city locations. And here's the dig. You can be a landowner for the price of filing a claim and keeping it up.

Beyond the foothills, land nestling in the verdant Angeles National Forest is yours to grab.

Land within echo distance of murmuring streams, land within earshot location of growing communities, and land that otherwise would sell for intoxicating prices.

File a claim, you ask? It can't be as simple as that. But it is!

Take for example the three San Fernando men who recently staked a claim adjacent to Little Tujunga Canyon Road, a few miles north of Foothill Boulevard. Ben Kenney, Herman Mye, and Jack Carrigan all were amateurs with an eye out for that atomic "cash register" called uranium.

Unlike most citizens, they were armed with information that they could be landowners by meeting certain mining requirements.

Requirements that are easy on the pocketbook.

Some of them include—

First, a claim must be filed. To file, one must locate land which is open for mining. Angeles Forest officials determine whether or not it is open. Most of it is.

Secondly, one must establish the proximity of minerals on the land. Difficult! Not on your life! Minerals mean anything from uranium to a gravel deposit.

Okay, so now you've found minerals. What next, you ask?

Check to see if you can file. Unless someone else has beaten you to it, or unless the land is closed to claims, your claim probably will be valid.

How much land? Some 1,500 feet along the vein, and 399 feet on either side are now yours.

Primarily two types of claims are filed. Placer claims which mean surface deposits, and lode claims which mean minerals found in veins of hard rock.

After your claim is filed, certain improvements are required to keep it. Total sum is \$100 yearly. A report of yearly improvements must be filed in the county recorder's office.

That's it. For all practical purposes the land is yours. What's more you can hold it indefinitely, as long as you keep up the yearly improvements.

You can own it if you wish. But that means added expense. Proof of \$500 in improvements must be submitted along with an application asking for patent. A licensed mineral surveyor must examine the claim and verify the fact that it has commercial value. A dozen other details to undergo and then maybe you'll get a patent on the land.

But it's not worth it. Why own it? Build a cabin and be content with a vacationland where you can spend weekends and holidays, and say—for all practical purposes—"It's mine."

If you happen to find a little uranium on the side—well, no harm in that either, is there?

NEW LAW PROPOSED AS REMEDY FOR MINING CLAIM ABUSES

SONORA, May 2.—A proposed law which would correct many of the mining law abuses on public lands is being studied in Congress.

The American Forestry Association inaugurated the proposed bill February 10. It proposes to rectify abuses by persons seeking to acquire national forest or other public lands for nonmining purposes. The measure, the association states, if adopted, will "clear up 75 percent of the present mining law abuses." In a release, the United States Department of Agriculture agreed with the association. The mining industry, the Federal Department of the Interior, and the Agriculture Department are cooperating with the association in seeking passage of the measure.

Five Senators and an equal number of Congressmen have introduced the measure which Congressman Clair Engle, of Red Bluff, said yesterday probably would be acceptable to a large portion, "if not all," of the mining industry.

No minerals, no claim

The major bill, H. R. 5561, is designed to prevent anyone from filing a mining claim on public lands where valuable minerals are not apparent. The United States court, Sacramento, is considering two suits at present which are aimed at misuse of mining claims in the Stanislaus National Forest.

These "test" cases have been filed by the Federal Government against Avery C. Moore, Long Barn, and Roy Ritter, a part-time Nevada resident who holds mining claims in Iceberg Meadow, Tuolumne County.

The Government in these cases asks that the court oust Moore and Ritter from mining claims which they have filed in the forest in areas where the Government claims there are no great deposits of commercial minerals or metals. Moore and 28 others, mostly persons who purchased mining claims from Moore, are defendants in the first suit, filed last August, while Ritter is the single defendant listed in the suit filed in Sacramento this week.

Proposals

The proposed law would—

1. Ban the location of mining claims for common varieties of sand, stone, gravel, pumice, pumicite, and cinders, and make these subject to disposal by the United States under the Materials Disposal Act. Many of the abuses, as reported by the Government, have been mining claims filed on this type of location.

2. Prohibit the use of unpatented mining claims in the future for any purpose other than mining, prospecting, and related activities. At present, listed among the abuses, is the erection of cabins, corrals, pack stations, and even foodstands on mining claims in resort areas.

3. Authorize the Federal Government to manage and harvest timber on mining claims and to use them for access to adjacent land.

Save timber

4. Bar the filer from removing or using timber and other surface resources except to the extent required for mining and other related activities. Under the current mining laws, persons filing a mining claim can prevent the Government from harvesting the timber or having access to the claim—usually 20 acres—permanently.

5. Provide a procedure to permit the Government to reclaim by quiet-title action claims which have been abandoned or filed prior to the enactment of the bill as proposed.

Throughout the United States, the association said, there are more than 84,000 unpatented mining claims today, but only 2 percent are producing commercial ores.

Oroville Mercury, Oroville, Butte County, Calif.: Miners favor Dawson bill by close vote

The Butte County chapter of Western Mining Councils, vice-president Mark Parker presiding, adopted a resolution last night favoring the enactment of the Dawson bill. The vote was close. Last week the Plumas County miners voted to also favor the proposal.

Gene Kincaid, forester for the High Sierra Pine Mills, spoke to the gathering, explaining the purport of the bill and its advantages to both the forestry service and the miner over the existing laws.

The miners had been questioning the propriety of Government taking over the surface rights of claims. Kincaid explained that, under the Dawson bill

miners having a claim would have exclusive mineral rights and claim to any timber necessary to further development of their claims. Furthermore, that after patent rights had been granted, the miners would entertain the complete rights of an owner. Kincaid said that the Government anticipated that passage of this bill would enable the miner to secure patent rights within 6 to 12 months after application.

One of the purposes the bill would serve, Kincaid explained, would be to limit the amateur uranium miner, who has had no mining experience, from tying up vast areas of forest and mining land for no productive purpose. Under the Dawson bill a Government survey must be made of the mine to ascertain its productivity before rights are granted.

At the conclusion of the meeting, the Butte County council scheduled their next meeting for sometime in October.

Feather River Bulletin, Quincy, Plumas County, Calif.: Mining council eyes proposed legislation at monthly meeting

Members of the Plumas chapter of the Western Mining Council gathered at the Greenville Inn last night to dine on chicken and dumplings and to discuss and resolve on several vital issues.

The lengthiest debate of the evening centered around a report by Joe Goodwin on a bill now pending in Congress to modify the basic Federal mining law. The bill is House Resolution 5561, introduced on April 14 by Congressman Dawson, of Utah.

Goodwin said the bill was a compromise that sought to ease conflicts cutting in all directions among miners, conservationists, timbermen, and Government agencies. It was Goodwin's opinion that miners should support H. R. 5561 in an effort to ward off even more drastic legislation.

The meeting endorsed the bill.

The second proposed law endorsed by the meeting was H. R. 661, introduced by Congressman Clair Engle, which some speakers said would reopen the domestic gold market and curtail the Government's sale of Fort Knox gold to private industry.

A committee headed by Al Satova then made a report relevant to a recent editorial in the Feather River Bulletin suggesting a cooperative venture to promote a broader development of the mining industry in Plumas County. It was the committee's finding that the Bulletin proposal was not feasible at the present time.

But the committee did recommend formation of an exploration and development corporation. The amount of capital required was discussed lengthily, with final agreement settling on the sum of \$500,000. Satova was named chairman to continue the endeavor, in cooperation with the Plumas County Chamber of Commerce to launch the corporation.

Near the close of the meeting, Chapter Chairman Dwyer Skemp disclosed that unknown interests were preparing to invest \$10 million building mills and establishing ore stockpiles to process copper in the county. Skemp declines to divulge full details, but he said a quest for millsites was already underway.

The entire meeting was well sprinkled with unfavorable references to the invasion of "weekend prospectors" and "paperhangers" who are combing the hills for uranium. The consensus was that the tenderfeet and greenhorns are getting into the hair of the native miners.

It was announced that the first carload of uranium ore, mined in the Red Rock district, was shipped out of Doyle in Lassen County last week.

Independent Journal, San Rafael: Keep mining claims for mining

Scheduled for hearing soon before the House Committee on Insular Affairs is a proposal to alter mining law so that claims on Federal property will be for mining rights only, and not interfere with the Government's management of the forests and other surface resources on those claims.

Present law gives the mining claimants waiver rights on timber or other surface resources. They cannot touch the resources themselves, but neither can the Federal Government.

This may not sound serious, but look at the situation in California alone. Here there are approximately 21,000 claims, covering an area of 600,000 acres. Slightly more than a quarter of them are inside national forests.

Of this number of claims, only about 10 percent might develop into a mine of some sort. Only 1 percent will ever operate in such a way as to afford a livelihood for the claimants from minerals.

During 1953, mining claims tied up land carrying some 3½ billion feet of timber in California worth more than \$50 million. None of this can be touched without a waiver, and many of the claimants cannot even be located.

The proposed bill would limit a mining claim to mining and related activities; authorize the Federal Government to manage the timber and other resources on such land, and provide, among other things, a method of resolving uncertain titles on claims already granted through due process of law.

Conservationists, mining groups, lumbermen, and Federal officials seem satisfied with the proposal. Barring "cleepers," it looks like a good bill to us.

Greenville: Miners favor enactment of Dawson bill

Plumas County miners are ready for a change in the mining laws. At a meeting here last night, they adopted a resolution with only one dissenting vote, favoring enactment of the bill by Representative Dawson (Utah) that would make important changes in law that has been in effect for nearly 100 years.

The reason for the change of attitude by the miners lies in uranium. The uranium rush, like the gold rush of 100 years ago, is bringing into Plumas County thousands of people that the established miners refer to as "illegitimate miners," who, they say, are taking advantage of the 100-year law to such an extent that legitimate mining later on will be faced with drastic regulation unless moderate regulation is placed in effect now.

As the meeting progressed, many who at the start were against regulation of any kind in the time-honored fashion went over to the side favoring the Dawson bill. Among these was Dwyer Skemj, president of the Plumas chapter of the Western Mining Council.

Strict curbs seen:

Joseph Goodwin, past president of the chapter, had copies of the Dawson bill. He pointed out that in the present conflict between illegitimate miners and those favoring good management of natural resources, the transient miners are going to give mining a bad name and that unless a moderate measure is adopted now, more stringent regulation is sure to come later. After an hour of debate, the miners agreed that this position probably was the correct one.

(The Dawson bill was introduced this week of April 11 and has been referred to the committee of Representative Clair Engle. It has not been set for hearing.)

The Dawson bill, as explained at the meeting, results from a meeting of the American Forestry Association last February to rectify abuses by those seeking to acquire control of public lands for nonmining purposes. It is said the bill, if enacted, will clear up 75 percent of present mining-law abuses.

Bill outline:

The proposal would—

(1) Ban the location of mining claims for common varieties of sand, stone, gravel, pumice, pumicite, and cinders.

(2) As to mining claims hereafter located, it would, prior to patent—

(a) Prohibit use of the mining claims for any purpose other than prospecting, mining, and processing.

(b) Authorize the Federal Government to manage and dispose of the timber and forage, and to use the surface of the claim for these purposes or for access to adjacent land, without interfering with mining operations.

(c) Bar the mining claimant from removing or using the timber or other surface resources except to the extent required for mining or related activities.

3. Provide an in rem procedure, similar to a "quiet-title" action, under which the Federal Government could expeditiously resolve title uncertainties resulting from the existence of abandoned, invalid, dormant, or unidentifiable mining claims, located prior to enactment of this measure. This procedure calls for adequate notice to mining claimants in the area involved, and a local hearing to determine any right to surface resources that may be asserted by claim holders. If a mining claimant fails to prove rights to surface resources, the claim would thereafter have the same status as claims hereafter located, with the Government having the right to manage and dispose of the timber and forage.

In this manner an area in which a timber sale, for example, is contemplated could be subjected to a conclusive determination of surface rights within as short a period as 6 to 12 months.

EXHIBIT No. 5

SAMPLES OF MINING CLAIM CONFLICTS IN NATIONAL FORESTS OF THE CALIFORNIA REGION

CASE NO. 1—TIMBER SALE

In 1946 and 1947 a family filed 8 placer mining claims and 1 lode claim in the Susan River drainage within the Lassen National Forest. After considerable negotiation the Forest Service was given verbal permission to cut and remove the high insect-risk timber from the claims.

The marking and cutting operations were initiated and partially completed on two claims when the claimants, through their attorney, notified the Forest Service that they wanted no further cutting to be done. Falling of timber was stopped the same day the message was received.

Some time later the claimants instituted proceedings to recover damages in the sum of \$75,000 from a lumber company as purchaser of the timber from their claims.

The Forest Service subsequently filed charges in the District Land Office against the validity of the two claims on which timber had been cut and removed. A hearing was held and a decision sustaining the charges was recently handed down. However, the time of appeal has not yet expired. The case is further complicated by the death of one of the principals.

(No appeal filed—case was closed and suit eventually dropped.)

CASE NO. 2—CHRISTMAS TREE SALE

In 1946 a Christmas tree sale was made to a party on an advertisement-bid basis in the Lassen National Forest.

Before the successful bidder had completed the cutting, the district ranger was approached by two men who stated that they had mining claims in the area and that they had not given anyone permission to cut the trees since they intended to market the trees themselves. The ranger went immediately to the sale area and stopped further cutting. The two mining claimants turned their case over to an attorney. Eventually the case was dropped. The district ranger and his assistant had thoroughly searched the area for claim notices and had strung cord around the area to be cut. After the conflict developed, the county records were checked and it was found that the two men had filed their claim just 4 days before the advertisement of sale.

CASE NO. 3—TIMBER SALE—RIGHT-OF-WAY

This group of placer mining claims totaling about 2,250 acres involves choice timberland which is a natural and integral part of a large timber sale unit. The claims have been controlled for a great number of years by one party who refuses to waive any cutting rights.

In 1938 the Forest Service met with such serious opposition to a much-needed right-of-way across these claims that the proposed logging road location was abandoned. The road has since been built across the claims on an old roadway. Evidence on the ground shows that very little effort has been made to develop these claims during the past 40 years.

CASE NO. 4—GRAZING CONFLICT

A mining company having 71 unpatented lode claims totaling 1,420 acres on the Mount Warren allotment within the Inyo National Forest requests that no grazing be permitted on its property. The area includes springs and excellent forage for a carrying capacity of 956 a. u. m. s., 525 of which are on the 140 acres of meadow covered by these claims.

CASE NO. 5—MUNICIPAL WATER CONFLICT

A mutual water company in the Bear Valley area of the San Bernardino National Forest with a water development for municipal use has run into difficulties due to an association placer mining claim filing on its reservoir side. The claimant has prevented the water company from making any further developments and is contesting the company's right to the water. At the very least, the situation causes costly litigation and may indefinitely delay the development of use of the water.

CASE NO. 6—REAL ESTATE ACTIVITY—OCCUPANCY

In the Stanislaus National Forest an individual and association have made more than 275 mineral filings on and/or adjacent to the Sonora Pass Highway during the past 5 years, generally for the recorded purpose of the mining and processing of precious and nonprecious minerals, building stone, lava, basalt, granite, sand, rock, gravel, and other commercial deposits. Through newspaper advertisements the principal party who lives on one of the claims and his son have in one 2-year period succeed in obtaining contacts with people to whom they were able to sell their title and interest in some of the claims for an aggregate sum of more than \$14,000. To the best information neither the locators nor purchasers have made an attempt to develop any of the claims for mining purposes. Several contests have been initiated against these claims by the Forest Service which were successfully concluded only to have the owners refile on the same land.

CASE NO. 7—FISH PROJECT

The Forest Service, in cooperating with the California Division of Fish and Game and local sportsmen's clubs toward the construction of a reservoir to provide a fishing lake and to regulate streamflow, ran into complications due to a mineral filing. During the preliminary engineering work a rather fresh cardboard sign was found at the proposed site which read as follows: "Notice—Private Property—To Whom It May Concern: The property along this Holecomb Creek as described below is valid mining claims owned by [two claimants] * * * Trespassers will be prosecuted."

Prospecting in the area is historic and fine colors can be found although there has been no commercial mining in the district since the early days. From experience it is known that this conservation project can be effectively blocked by the claimants or delayed to the extent that the required funds from the State Wildlife Conservation Board will no longer be available.

CASE NO. 8—RESIDENCE OCCUPANCY AND GRAZING CONFLICT

Two claims and a millsite were filed on by a party in the head of Live Oak Canyon of the Cleveland National Forest in 1926. Previous to that time the ground had been prospected, and tested for clay, only to be abandoned because the clayey fractions were too impure. When the filings were made in 1926 the claimant dug two shallow holes, not over 3 feet deep and 6 to 8 feet in diameter. He then proceeded to build a rambling clapboard residence and develop a spring on the hillside above the claims over which he foled a millsite. After piping water from the spring to his house he settled down in his residence until 1946 or 1947 when he passed away. The claimant willed the claims to a nephew who refiled on them but did nothing toward developing them. It is understood that a third party is buying the claims from the nephew.

The Forest Service has experienced considerable administrative difficulties because of the claims. In 1931 the claimant leased the grazing rights permitting 20 head of cattle to feed off the grass. When the Forest Service protested he became defiant but later removed the cattle. The same year an application for patent was made. In 1932 the Forest Service protested the entry and finally succeeded in having the application rejected although the claimant was permitted to hold the claims for further development. These claims are on grassland of the Santiago grazing unit which could not be utilized because of the claimants refusal to let the grazing permittee's stock graze on any part of claims or to water his cattle at the spring on the millsite notwithstanding the permittee's offer to install a watering trough with a float valve so that the claimant's water supply would not be affected.

At another time the claimant permitted a friend to run saddle and pack stock on the claims. None of the uses of the surface of these claims by the claimant or others by his permission contributed in any way toward the development of mineral.

CASE NO. 9—CAMP GROUND AND SPECIAL USE CONFLICT

One individual in the Mono Lake District of the Inyo National Forest made more than 94 mining and millsite filings since 1944. The claims along the Rush Creek and those adjacent to Gull Lake covering 980 acres have been the source of perennial complaints, demands, appeals, and controversies over the generally fictitious conflict with user of the Rush Creek Campgrounds, and Silver Lake, Public Dump, with special use pasture permittee and over water right applications and proposed relocations.

CASE NO. 10—ACCESS

In the Trinity National Forest a party has filed claims which control access to private timber holdings as well as to adjacent Government stumpage. The claimant has demanded payment either lump sum, or on a per thousand basis of timber moved, for a right-of-way across the claims.

CASE NO. 11—SPECIAL-USE CONFLICT

In 1941 the Forest Service issued a free special-use permit to Siskiyou County for the removal of sand and gravel from national-forest land for use on local county roads. This arrangement continued without any trouble until 1948 when a party filed a sand-and-gravel placer-mining claim over the pit area, placed a gate across the access roadway, and posted the area warning trespassers against removal of sand and gravel. This action was considered as a trespass and the Forest Service corresponded with the claimant on such a premise. Notwithstanding, the party continued to deny the county access to the pit even to remove the gravel which had been sized and stockpiled. The county then proceeded to build a short piece of road bypassing the gate and continued to remove and size gravel. At the same time the county filed a suit against the claimant. The hearing of the case was postponed two times and it is understood that the claimant elected to withdraw from his attempt to sustain an interest in the area.

CASE NO. 12—RECREATION

In the Sierra National Forest a party is maintaining mining-claim status to 40 acres as 1 placer claim and 1 lode claim. Although not interfering with any specific project, the property has not been worked for an estimated 20 years. The only use being made of the claims is of a summer-home nature. There presently exists on the claim three good-quality cabins of log and concrete design, with a concrete floor poured for an additional cabin. Use is limited to hunting, fishing, and recreational parties.

CASE NO. 13—SKI DEVELOPMENT

On Independence Creek in the Inyo National Forest a party has some mineral locations which he maintains covers lands on which the Forest Service has a campground and permitted the construction of a ski hut and rope tow. Because of the contention of this claimant, future development of the area for both summer and winter recreation is at a standstill.

CASE NO. 14—CAMPGROUND

On the Tahoe National Forest an elderly woman has a 60-acre placer-mining claim which dates back for a great number of years but on which no mining has been done since 1915. In about 1926 the Forest Service laid out a campground adjacent to the State highway on land which recently was found to be within the boundaries of the claim. No objection or protest was made to the development and maintenance of this public camp until the Forest Service entered a protest to the issuance of mineral patent to the claim some 20 years later. Although the charges made by the Forest Service were sustained in a hearing and the patent application rejected, it was necessary for the Forest Service to evacuate the campground. The campground was the only Government camp for a distance of 25 miles. Notwithstanding heavy use by the traveling-camping public, fishermen, and hunters for 20 years or more, the public is denied continued enjoyment of land on which no mining was ever undertaken and no use other than camping ever made thereof.

Senator ANDERSON. Any questions, Senator Millikin?

Senator MILLIKIN. No questions.

Senator BARRETT. I want to ask one question.

Assuming that any claim that might be filed would have considerable of this sand, stone or gravel or pumice, as you indicated a moment ago, and the contest was initiated under existing regulations against the miner holding that claim, he would have little or no difficulty in proving that he had made a discovery of some of those materials, would he not?

Mr. THOMPSON. He would have no trouble in proving that he had made a discovery of those materials but I do not know in exactly what way the law is interpreted. I believe there has been some interpretation although I have not seen it in writing that there should be a possible market for these things.

The people from the Bureau of Land Management could answer that question much more clearly than I.

Senator BARRETT. Well, if he discovers it in commercial quantities, certainly he has complied with the mining law?

Mr. THOMPSON. As far as location is concerned, he has without doubt, yes.

Senator BARRETT. So the sum and substance of that situation would be that he would not be subject to attack under existing regulations in that case, would he?

Mr. THOMPSON. It is my belief that is so, yes.

Senator MALONE. Mr. Chairman, I think the witness's testimony is very clear and straightforward and he deserves a lot of credit for his statement.

Mr. THOMPSON. Thank you.

Senator MALONE. We have a homestead law and I have had considerable experience with it, with its use to obstruct certain use of water holes on the range. Somebody might file a homestead where obviously there was not enough water to irrigate the land to hold it.

It is rather irritating to the people who wanted to use his water for stock purposes, but nobody ever suggested that they change the homestead law; they simply suggested that it be administered so that if there obviously was not the water there and he was not making an effort to drill to get more, it could be hastened to make him comply.

The same thing is true with the mining claims. Some of us have experienced here a two-decade endeavor to get move after move to bring into the leasing act to be administered from Washington the prospecting for minerals, and we certainly know what would happen if they were successful.

Then you have someone breathing down your neck and this fellow is probably a graduate from a college but he is over you and you are harassed continually.

One thing with the mining law, and that is a thing that we would like to preserve and we would also like to see administrative procedure that would not prevent men like you putting their money in the business.

As a matter of fact, I know something about these men because I used to run logging roads.

Mr. THOMPSON. One of our members had headquarters in Reno.

Senator MALONE. What is his name?

Mr. THOMPSON. He is a big rugged fellow.

Senator MALONE. He runs a sawmill?

Mr. THOMPSON. That is right.

Senator MALONE. The head of my regiment, when I had one of the batteries, died not long ago and he was a lumberman. I have known lots of lumbermen. We in this mining act are not trying to destroy your operation, we are trying not to destroy the man that goes out there with little capital, and they are the ones that find the mines.

The mining companies that have offices in Sutter Street do not find the mines.

Mr. THOMPSON. Sir, I am sure that our members to the man would agree with you thoroughly. They started as men without any resources of their own and they are entirely in sympathy with that.

Senator MALONE. We do find this: We find mining companies who get big enough who are for this bill because they have a man in Washington who can come here and spent \$5,000 to get here and live in a good hotel and they get about what they need, but the men we are talking about, and I am sure that is what the senior Senator from Colorado has in mind, are the men you will never see.

Now, the fact that some of these men have taken advantage of it does not justify us in destroying the basic structure that allows a man to go out and do this. Most of the mines that we find have been found by people that an engineer would not say had a very good showing and they would probably chase him off. But they stay there and are persistent and they get along.

Finally, one out of a thousand of them gets a mine.

Mr. THOMPSON. That is right.

Senator LONG. We do not want to disturb that relationship. We do not want it so that some fellow here in the Bureau who is a graduate of a nice college will go out and say, "Look, there is no mineral here; you should know better than that." Therefore, he can give him all the trouble in the world.

Mr. THOMPSON. Senator, we studied this bill, we had legal advice on it, and we are told it will not interfere with legitimate prospecting just as you have heard testified here today by other mining men with whom I am not acquainted at all.

Senator MALONE. I am acquainted with all of them.

Mr. THOMPSON. I am convinced in my mind that this will not interfere with mining.

Senator MALONE. There has not been a mining man before us.

Mr. THOMPSON. I understood the gentleman, Mr. Holbrook, has had wise experience.

Senator MALONE. He is a lawyer, he is now working for the mining organization.

What I would like to see is to have these people go out to where these mining people are that do not have the money to come in here.

Senator ANDERSON. I do think that a large number of mining people have discussed this in their State meetings and with the exception of one State, they have been for it.

Senator MALONE. I can show you some letters.

Mr. THOMPSON. Some of the councils of the California Mining Association have approved this legislation for us.

Senator MALONE. They have been told that they are going to get something worse if they do not take this practically without exception and it will be a terrible opportunity if they give them an opportunity to say that in the meeting.

Senator ANDERSON. I want to assure everybody that I have not made any such statement as that.

Senator MALONE. It is an undercurrent.

Senator ANDERSON. I am anxious to take care of people who are here and are prepared to testify, but it is now 4:30. I have made only one commitment and wired Mr. Hudoba and told him I would hear him today at 10 o'clock, not knowing how long this would last. I would like to hear him.

Mr. McArdle, you will have to be before the House tomorrow and I think they would excuse you and let you come here perhaps.

I am wondering if we could hear Mr. McArdle at 10 o'clock and whether that would suit you.

Mr. McARDLE. Yes.

Senator ANDERSON. Then after Mr. McArdle, we would have Mr. Besley, Mr. Gutermuth, Mr. Granger.

How long is your statement, Mr. Hudoba?

Mr. HUDOBA. Three or four minutes.

Senator ANDERSON. I feel obligated because I told you I would hear you and I would like to make good on my promise.

Mr. HUDOBA. I appreciate your courtesy but I am not from out of town and I will be here tomorrow.

Senator ANDERSON. I wired you in New York and that is where I received the impression you were. If you will be here tomorrow, I assume the committee would probably like to hear you.

Mr. McArdle?

Senator MALONE. Mr. Chairman, before he starts I would just like to say that we do have one man here that represents a great mining organization, the Colorado Mining Association, and I would like some time tomorrow to give him an opportunity for 10 or 15 minutes to testify before this committee.

Senator ANDERSON. Mr. Palmer?

Senator MALONE. Mr. Robert Palmer of Denver, Colo.

Senator ANDERSON. Surely. We all know Bob Palmer and will be glad to hear him.

STATEMENT OF RICHARD E. McARDLE, CHIEF, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. McARDLE. Mr. Chairman and committee members, I appreciate the opportunity of appearing before you in support of S. 1713, a bill to amend the mining laws to provide for multiple use of the surface of public lands.

Mr. Ervin L. Peterson, Assistant Secretary of Agriculture, had hoped to represent the Department here today but, unfortunately, he had other commitments which have taken him out of the city and which could not be rearranged.

My statement will be brief.

I know there are numerous other witnesses whom you wish to hear, and you already know from the formal report of the Department that we recommend early enactment of this bill, with only one minor clarifying amendment.

This bill and seven companion measures in the House were introduced only a few weeks ago and the Department appreciates the attention which both the Senate and House committees are giving to these bills by holding hearings so promptly.

I do want to say that the problem of preventing misuse of mining claims on the national forests and providing equitably for multiple development of both minerals and national forest surface resources on such claims is probably the most important single problem facing the Forest Service at the present time in its administration of the national forests.

Therefore, this bill and its companions in the House constitute the most significant legislation affecting the national forests which is pending in the present Congress.

In the Department's report we described the provisions of this bill in some detail, and I shall not repeat them here. Briefly, it would:

1. Apply to all Federal lands subject to the United States mining laws;

2. Remove common varieties of specified materials such as sand, stone, gravel, and pumice from the United States mining laws and make them subject to disposal under the provisions of the Materials Act of 1947;

3. Provide that mining claims located after enactment of the bill would be subject, prior to patent, to the right of the United States to manage and dispose of the vegetative surface resources, and to manage other surface resources;

4. Establish a procedure similar to that in Public Law 585 of the 83d Congress, whereby the Secretary of the Department administering the Federal land may initiate action for determination of the surface rights, prior to patent, of holders of mining claims located prior to enactment of the bill.

The purpose of the minor amendment recommended in the Department's report is to make it clear that revenues from O. and C. lands under the administration of the Department of the Interior and lands administered by the Department of Agriculture under Public Law 426, of the 83d Congress, will be placed in the O. and C. fund.

The two departments collaborated with each other and with Congressman Ellsworth, author of H. R. 5577, in developing this language.

In the 82d Congress, bills were introduced by Senator Anderson and Congressman Cooley aimed at protecting surface values of the national forests, as well as bills by Senator Chavez and Congressman Regan which would have amended certain provisions of the Materials Act. This early action was stimulated in part, at least, by the Society of American Foresters, and was supported by various other conservation groups.

In the 83d Congress there were bills by Senators Anderson, Dworshak, and Chavez, and Congressmen Hope, D'Ewart, and Regan, all aimed either at protection of surface values of the national forests and the public lands, or amendment of the Materials Act.

In both the 82d and 83d Congresses, bills to amend the Materials Act passed the House, and again this Congress, H. R. 230, by Congressman Young, has likewise passed the House and is pending in this committee, as is a similar bill, S. 1098, by Senator Neuberger.

We have discussed our problems earnestly not only with conservation groups but also with the American Mining Congress and other representatives of the mining industry which have never condoned the use of mining claims on public lands for other than mining purposes.

Several months ago the Departments of Interior and Agriculture, and representatives of the mining industry, were invited by the American Forestry Association to talk their problems out in an effort to find what area of agreement might be reached.

In supporting S. 1713 and related bills, I believe you will find that for the first time the Departments of Interior and Agriculture, the

mining industry and many conservation groups are together in favoring the same legislation.

From the standpoint of the administrator of public land this bill does not go as far toward complete correction of mining problems as do some of the other bills in this and preceding Congresses. Even though this bill does not cure all problems, it is a very significant and major step forward, and if funds are available for its implementation, will result in correcting a very substantial portion of our problem.

During the past several years, the mining claim situation on the national forests and other public lands has become much more acute.

Fifty years ago when the national forests were established, mining claims were not the problem they are today. There were far fewer claims; prospecting was done by a relatively few bona fide miners; the national forests were inaccessible to most people; there weren't the conflicting pressure for surface use, and the job of managing the national forests was largely custodial.

Today the situation is entirely different. Population of the West has greatly increased. The highway and the automobile have taken the national forests out of the hinterlands, and put them in the back-yard of metropolitan areas.

We have about 100,000 contracts each year with national forest timber buyers, grazing permittees, and various special use permittees; not to mention 30 million who use the western forests for recreation, including hunting and fishing.

Many city people are prospecting for uranium in their spare time in hopes of striking it rich. Methods of prospecting have changed, too. Yet, to effectively manage the national forests, the Federal Government must have access to and control of the surface resources.

Claimants have the right to locate without regard to other values, and the United States may not harvest timber or manage other surface resources without consent of the claimant. All this adds up to conflicts of interests, delays, higher costs, obstruction of orderly management, and tying up valuable timber and other surface resources.

We estimate that at the beginning of this year there were about 166,000 national forest mining claims, covering nearly 4 million acres. This is a 100-percent increase in 3 years, largely due to prospecting for uranium and other fissionable materials.

New claims are being filed on the national forests at the rate of about 5,000 per month, which would mean 225,000 claims by the end of this year.

We have over 100 billion board-feet of timber tied up on national forest mining claims, and this timber has a stumpage value of \$112 million.

Since 1952 the number of national forest mining claims in Arizona has increased seven times. They have quadrupled in New Mexico and Utah. Wyoming, Montana, Colorado, Nevada, South Dakota, and Washington have seen claims double or more than double in that period. Only in California, Idaho, and Oregon has there been no great change.

Nearly 10 percent of all national forest claims are based upon a finding of sand, stone, gravel, cinders, or low-grade pumice, which occur over large areas.

In northern New Mexico and Oregon and Washington, especially, have claims based on low-grade pumice been used as a basis for obtaining control of timber or other important surface values.

On the Santa Fe National Forest in New Mexico, 172 million feet of timber worth \$1.7 million is tied up because 3 timber sale areas are 75 to 90 percent covered by claims.

In Arizona and New Mexico we have 40 grazing allotments with a capacity of about 10,000 cattle, which are more than 75 percent covered by mining claims.

On the San Juan National Forest in Colorado, we know of 680 claims in a solid block, covering 28,000 acres, which makes up over 90 percent of the Piedra River unit, and timber sales involving 90 million feet are dependent on access over 10 miles of these claims.

On 4 other forests in Colorado, the White River, Gunnison, Pike, and Grand Mesa-Uncompaghe, there are 25 grazing allotments substantially covered by claims, as well as 17,000 acres of improved recreation areas, and a timber working circle involving 6 million board-foot.

The Fall River Ranger District in the Black Hills National Forest of some 85,000 acres is 75 percent covered by claims and another 50,000-acre area in the Black Hills, in the Elk Mountain Ranger District, is nearly 100 percent covered.

On the Bighorn Forest in Wyoming, at least 1 sheep allotment is nearly solid claims, and 2 cattle allotments are about 50 percent covered.

Of all the timber on national forest mining claims, about one-third of the volume and one-half of the value is in California. On the Tahoe and Sequoia Forests, for example, six ranger districts are one-third covered by claims which support half a billion feet of timber.

On the Sioux Ranger District of the Custer Forest in Montana and South Dakota 74,000 acres, or one-half the district, has been staked with 3,500 claims in the past year, and uranium prospectors are currently staking more claims as the snow recedes.

One cattle permittee running 170 head has applied for refund of a third of his 1954 grazing fee on grounds that mining activity kept his cattle off the range.

On the West Fork Ranger District of the Bitterroot Forest in Montana, 50,000 acres, or one-third of the area, is tied up by 1,000 claims, involving 50 million feet of timber.

In Oregon and Washington, for the 9 national forests where claims are most numerous, there are 4,370 claims covering 101,000 acres in working circles where timber is being harvested in the orderly course of management. These claims make it impracticable to sell 3.4 million feet of timber worth \$68 million. One fourth of this timber is on the 550 pumice claims.

On the Manti-La Sal Forest in central Utah, where uranium prospecting is very active, the Mesa-La Sal Ranger District of 175,000 acres is 75 percent covered by claims. Fourteen grazing allotments and 75 million feet of timber are involved.

Also, the Monticello District of 368,000 acres on the same forest is 80 percent covered. Involved are the community watersheds for Blanding and Monticello, Utah, 10 grazing allotments furnishing summer feed to 4,800 cattle and 6,500 sheep, and 100 million feet of

timber. Some reseeded range is being impaired and further reseeding has been stopped.

I could go on and give many additional examples, but I only wished to mention a few to show the need for remedial legislation promptly before the situation becomes even more acute.

One of the key provisions of S. 1713 is section 5, which would provide a procedure for determination of surface rights of claims filed prior to enactment of the bill. To implement this procedure in a reasonable way would cost probably from \$750,000 to \$1 million annually for perhaps a decade, as far as the activities of the Department of Agriculture are concerned.

I would not want to give the committee the impression that there would be no Federal expenditures in connection with the administration of the bill's provisions.

On the other hand, after these rights are determined and for all future time, there would be very little cost associated with the bill. Even a cost of \$10 million is small, in my judgment, if it frees \$100 million worth of Government timber and other valuable publicly owned surface resources.

Twenty-five percent of national forest receipts from the sale of timber and other resources is distributed to counties. Thus there would be a substantial return to both Federal and local governments by freeing these surface resources.

It is my judgment that this bill would go a long way toward alleviating our national forest mining problems and encourage multiple development of all their resources.

The Department has always favored the development of the mineral resources underlying the national forests, and we would not favor any legislation which would work a hardship on the bona fide miner or prospector. The support of the mining industry for this bill is clear indication that it would work no undue hardship.

The bill does not include all the changes in the mining laws which would be desirable from a good public land management standpoint. Some problems would remain with respect to mining in the national forests which this bill would not correct. However, the support of the Federal departments and conservation groups is clear indication that the bill would result in substantial progress.

Because of the accelerated rate at which mining claims are every day and every hour being filed on the national forests, may I again impress on the committee the importance of prompt action.

The estimated rate of 5,000 new claims per month means that 167 new claims are filed every day, 7 days a week. On the average, 7 new claims are filed every hour, 24 hours a day.

In the month since this bill was introduced, another 100,000 acres of national forest have been staked to mining claims, with resulting problems of surface management.

In summary, I can state my views on this bill in three or four sentences.

First, it is a good bill; I strongly urge its enactment.

Second, it will go a long way toward solving mining problems on the national forests if funds are available to implement it.

Third, some problems will remain which this bill won't solve.

Fourth, prompt action is important because at the rate the new claims are being filed, an already acute situation is rapidly getting worse.

That is the end of my prepared statement, Mr. Chairman.

Senator ANDERSON. Senator Millikin?

Senator MILLIKIN. No questions.

Senator ANDERSON. Senator Malone?

Senator MALONE. I am very much interested in your statement, Mr. McARDLE, and I am also very surprised at the activity in mining that you have described since the treatment received in Washington.

Now, your complaint is altogether Forest Service, is it not?

Mr. McARDLE. My testimony concerns the Forest Service of the Department of Agriculture.

Senator MALONE. Would you object if an amendment to this bill confining its provisions to the Forest Service or to the monuments and parks, or wherever mining claims are allowed in Government withdrawn land?

Mr. McARDLE. Several bills have been introduced in previous congresses which would apply only to the national forests of the Department of Agriculture. Personally, I think it would be well to cover all public lands at the same time under the same laws.

Senator MALONE. Would you object to such an amendment?

Mr. McARDLE. I do not think I can speak for the Department on that, Senator Malone. Personally, I would not object but again I would repeat that I think it would be advisable to have them apply to all land administered by the Federal Government.

Senator MALONE. Well, of course, for a couple of decades we have been subject to suggestions such as yours. I do not know whether you have been one of them or not but they have all pointed toward a leasing system for all mining claims, mining as well as all other uses of public lands.

What position do you take in that regard?

Mr. McARDLE. During the years that I have been here, which is about 11 now, I cannot recall that the Department of Agriculture has proposed a leasing system.

Senator MALONE. Are you familiar with the fact that the Department of Interior has?

Mr. McARDLE. No, sir; I am not. That does not mean they have not done it; it is just that I did not know.

Senator MALONE. They have, for your information. Now, every one of you have been here today, Government people, and you have all pointed to the law we passed, 585 or whatever it is, coordinating the oil, gas leasing act with the mining law as a step in the direction of more Federal bureau authority on these lands.

Some of us have the idea that this is just a step to that; this is not exactly what you want but a step toward it, another step.

Would you have any advice on that phase of it?

Mr. McARDLE. I was not aware that the bill was being proposed for that purpose. I thought that the bill was being proposed by Agriculture, Interior, mining industry and the conservation groups having joined in, suggesting this measure as a means of clearing up the situation that now exists.

I do not think it has too much to do with attempting to get more control for any Federal agency. It is a means of assuring to the

Federal Government the right to manage the surface resources of these claims while they are in claim status.

Senator MALONE. Is that not what it is all for; in other words, what the Taylor Grazing Act is for? It is what all these acts are for, is to get greater control of the public lands?

Mr. McARDLE. Certainly it would restore to the Federal Government control of these surface resources.

Senator MALONE. What do you mean restore?

Mr. McARDLE. I mean in this sense, Senator Malone: At the present time the Federal Government does not have the right to dispose of the surface resources, timber and forage, on a mining claim and neither does the locator. It is in limbo, so to speak.

Senator MALONE. Well, it could be that the folks who have been advocating these laws for 50 years, they lose there once in a while, but most of the time they win. Maybe that is the reason you have not had it.

Mr. McARDLE. Well, as I tried to say in my testimony, the situation was quite different 50 years ago when the national forests were established than it is today. There were not these conflicts in other uses, desires to use these public lands.

There has been testimony here today that there are citizens who desire to buy timber from the public lands who know that there are many thousands of people who have been for a great many years using these public lands to run cattle and sheep, using the forage.

We know that there is an increasing number of towns and communities and some are of no small size, some of which are completely dependent or partly dependent on these public lands for water. Some of these are of considerable size such as Denver, Colo., Portland, Oreg., Salt Lake City. There are at least 2,000 more in western States that have to depend on public lands for their water. They want certain things done with these lands because their water supplies are depended on.

So we have today a great many of the people who want to use these public lands who were not wanting to use them 50 years ago.

Senator MALONE. Some of us have been out there that long, you know.

Where are you from?

Mr. McARDLE. I am from Kentucky. I started my forestry career in Oregon, following which I served in Idaho, Colorado, Wyoming, South Dakota.

Senator MALONE. Some of us have been pretty close to this water storage and municipal water supply in our areas, too.

I never heard much complaint about using the grass by the miners in areas where these lands are located that will be affected outside the forest reserve. I have heard that for 40 years, continual encroachment on the people that are using those lands and have been using them for longer than that period for grazing.

Now, you have a job to do, and I know what it is in a general way, because I have been associated with people that use these lands.

The general disagreement with some of your rules and regulations is not against your forest conservation, but you are not equipped to handle grazing. You are set up to handle forests, and I do not know whether you have been in my State of Nevada or not, have you?

Mr. McARDLE. Yes; I have.

Senator MALONE. Have you been over the land in the forests there?

Mr. McARDLE. I have been to all except one.

Senator MALONE. What one?

Mr. McARDLE. Nevada State Forest.

Senator LONG. You are familiar with what kind of forests we have there?

Mr. McARDLE. That is right.

Senator MALONE. Did I aptly describe it once or twice today?

Mr. McARDLE. The Nevada national forests run largely to grazing lands.

Senator MALONE. But you still have the same rules in your forest land that apply elsewhere?

Mr. McARDLE. The basic rules; yes, sir.

Senator MALONE. That is right. Therefore, any attempt to change them is met with objections by your National Forestry Association that are entirely right where there are real forests because we do not have any real forests there. So I am perfectly familiar with your attempts all these years to do these things, and I think they probably apply in Kentucky or in Pennsylvania, where these forests are where it is not so necessary that the miners and cattlemen and sheepmen make use of these lands if there is any use to be made of them at all.

Mr. McARDLE. Sir, so that I will not be misunderstood on the record, most of the national forests in this country are in the West. There is about 20 million acres out of 180 million acres in the East. But the great bulk of the forests are in the West.

Senator MALONE. But the great bulk of the people that belong to these associations are in the East?

Mr. McARDLE. As to that, I could not say.

Senator MALONE. Well, I am telling you because I checked that. We get their advice all the time.

Mr. McARDLE. I just heard from two associations who are in the West.

Senator MALONE. They are not forest associations?

Mr. McARDLE. The ones we just heard from, yes.

Senator MALONE. There are lumber associations. There is a great difference, in case you had not heard. I supposed you knew.

Mr. McARDLE. Between those two associations?

Senator MALONE. Yes. There is a great difference in a lumberman's association and a forestry association.

Mr. McARDLE. Yes, we recognize that. There is also a difference between a lumberman's association and a grazing association. We deal with all of them.

Senator MALONE. We do not have any trouble with the Lumbermen's Association, nor the grazing or the mining either in our State. However, your statement would lead us to believe that the Lumbermen's Association is a forestry association.

Mr. McARDLE. No, I did not imply that. They deal with forests. They are primarily concerned with harvesting the forest crop.

Senator MALONE. That is correct. You want to bring all the forest land in whether you have anything to do with it or not. You object to any amendment that would confine it to your bailiwick.

Mr. McARDLE. No, sir; I did not say that I either objected or favored. I said, speaking only for myself here today, and not for the Department, that I thought it would be desirable to have all federally

owned land come under the same mining law provisions. That would apply whether they were forest lands or whether they were nonforest lands and primarily for grazing or whatnot.

Senator MALONE. I understand what most of your representatives want, but I am trying to get at what is necessary.

Mr. McARDLE. So far as the national forests are concerned, of course, as I have tried to make plain here today, I am mainly concerned with the administration of the national forests because we have the kind of problems that I attempted to illustrate.

I would like to get those solved. I would think that the Bureau of Land Management would speak for itself as to whether they wanted their problems solved. Certainly we want ours solved.

Senator MALONE. How long have you been in this work?

Mr. McARDLE. Thirty-one years.

Senator MALONE. Confined to the Forest Service work?

Mr. McARDLE. Thirty-one years in the Forest Service.

Senator MALONE. Are you familiar with the provisions of the 1947 Materials Act?

Mr. McARDLE. No, I am not.

Senator MALONE. You said in your testimony you would like to have the pumice and other materials regulated under that act. I thought maybe you knew something about that.

Mr. McARDLE. I am not familiar with the detailed operation of that act.

Senator MALONE. You do know what it is, of course?

Mr. McARDLE. I do know that many claims are now being located, particularly in the forest country of the Northwest, on land which has a showing of pumice. It is low-grade pumice.

Under the mining laws, it would qualify as sand. I think it would be rather difficult to operate those claims for pumice but the timber on them is worth thousands of dollars.

Senator MALONE. Do you know what are the uses of pumice?

Mr. McARDLE. Yes. It is used mostly as an abrasive for building materials.

Senator MALONE. You do not know anything about the 1947 Materials Act.

Mr. McARDLE. I do not pretend to be an expert on that act.

Senator MALONE. You recommended that they be handled under the act and I thought you must know something about it.

Mr. McARDLE. I know enough about it to recommend that.

Senator MALONE. What do you know about it?

Mr. McARDLE. I think if these materials that we are talking about here, such as pumice, stone, sand, and gravel, were handled under some different procedure than they are being handled now, where, frankly, Senator, people are using the basic mining laws in order to gain control of other resources rather than the materials themselves, we would be far better off and we would stop a lot of the complaints and a lot of these difficulties that we are having in the management of these areas.

If they were handled on a leasing basis, the men who had a legitimate desire to obtain those materials for building purposes or for other purposes could still obtain them.

Senator MALONE. That is what you are really for, a leasing system; is that correct?

Mr. McARDLE. I am not saying that I am for a leasing system. I am saying I am against the present system where people are abusing the present laws, and I think this would then put it clearly out in the open as to whether the locators of these areas are primarily for minerals, or whether they are primarily for timber.

Senator MALONE. Suppose we agree that there are abuses, and I think there probably are abuses of all the laws. I guess you would agree that there are abuses of any law on the statute books; is that not correct? We even break the city ordinances now and again.

Mr. McARDLE. Yes.

Senator MALONE. Would you agree that there might be other ways of tightening the administrative end of the mining laws rather than trying to do what some of us believe would give the small prospector a lot of headaches, the fellow who is really trying to discover a mine?

Mr. McARDLE. Let me make it plain again, as I tried to make it in my testimony, that the Department of Agriculture, and the Forest Service as a part of that Department, have no desire whatever to restrict or to hinder legitimate prospecting and legitimate mining.

We are now facing a situation where a lot of claims are being filed and a man does not have to be a legitimate miner or a prospector to file a claim and the mining laws are being abused.

I think these people are making it harder for the type of people you are attempting to protect and I think we are attempting to protect.

Senator MALONE. Let me say this to you, having been with them for 40 years: Many prospectors are farmers who, in the wintertime, do prospecting. They just go out to see if they cannot augment their income a little bit and I do not suppose under your examination they would qualify as miners, and the fellows who discover these mines a lot of times have no experience at all. So many of them go out there and start poking around that every once in a while you get pretty good prospecting, but what we have been doing here in Washington for a couple of decades is fixing it so if they discover something they cannot do anything with it.

I would like to see a tighter administrative policy.

Mr. McARDLE. We have given that a great deal of consideration, Senator Malone, over a good many years in the Forest Service, and in the Bureau of Land Management of the Department of Interior, and the mining industry has also had many discussions with us on that subject.

The difficulties come with the sheer physical fact that there are so many of these claims. It would take thousands of man-years of work. It would take millions of dollars to attempt to clear up some of these situations that are abandoned claims, or invalid claims, or some other reason.

We estimate—and this is purely an estimate—that it would take about \$30 million just to get caught up and about \$5 million a year from here on out. If they keep on filing claims at the rate they are going, then I would want to raise that \$5 million to a much higher figure. That concerns only the national forests. I do not know what it would be for the Bureau of Land Management.

Senator MALONE. Let me give you just a little bit of information.

Many administrative officials in Government over the last several years, up until last August, made speeches, and wrote briefs and

articles in the papers that uranium, for example, we had to get from the Belgian Congo and that we did not have it in the United States.

Some of us just happened to grow up with this thing.

In 1938 I made a report on Utah and Colorado with respect to uranium. I did not know what they were going to use it for particularly. I do not know why I paid so much attention to it, but you will find a report filed last August out of this committee that did not say it in the words I am going to say to you; but, due to the discovery of its use starting in Colorado and Utah, with the now 7 or 8 States covered by these people that you say do not know what they are doing, probably in about 2 years from now, if we do not run them off of the public land, uranium will be running out of your ears.

I only say that to you as an illustration. It took thousands of people to do this. There was an incentive there that they could make some money on account of a guaranteed price until 1962.

I know you would not know anything about this, but I wanted to give you this information so that you can see that anything you put in the way of a miner could very well result in your having to go to the Belgian Congo for something.

Many of us—I do not know how many I speak for—will go along with you for tightening the administration so that no one can do something with these claims that they are not supposed to do.

I do not like to put more power and, if I may say it, in your hands because I have been familiar with the Forest Service operation in the West for 40 years and I have no good reports to give you today on their administration of the grazing privileges and rights. There is a continual fight, and not only with respect to the fees and cutting down on the carrying capacity.

There is no use going into that here, but if it is of interest to you, we will go into it in some other manner. However, that is something that you ought to know something about. Many of us believe you do not know anything about it.

Mr. McARDLE. I may not know a great deal about mining because I do not pretend to be a miner, but I know a good deal about the surpluses of the national forests and I can speak with some conviction and some authority on that.

Senator MALONE. Undoubtedly that is true.

Mr. McARDLE. Not only for one State, but for other States.

Senator MALONE. That is undoubtedly true. You know, we have no forests in Nevada of any particular value. You know that, do you not?

Mr. McARDLE. There are about 2 million acres.

Senator MALONE. I would say about 200,000.

Mr. McARDLE. It is mostly mountain stuff.

Senator MALONE. And there is no timber value except in about 200,000 acres. You should know that. You can get juniper posts out there. There is no use you and I arguing about that because all you have to do is go to your records.

Mr. McARDLE. Those forests are perhaps of considerable value to the people in Nevada. I do not think they are of great value to folks in other States.

Senator MALONE. They are of no value to the Forest Service.

Mr. McARDLE. There is another aspect that I should bring in that has to do with administration. It is one that we have encountered.

That is, that after going through this process for filing, there is nothing to prevent a man from going out the next day and on a new showing restake a claim, and that has been done. Then you go through with it all over again.

Senator MALONE. Do you want to prevent restaking of a claim if there is an actual discovery?

Mr. McARDLE. No. We have not had that. I am talking about one where the protest was sustained. They go back to the same place and on a new showing restake it.

This bill would clear up these hundreds of thousands of old claims, some of which may be abandoned, some of which may be still alive, and would not in any way affect the claimants' mineral rights but would clear up for all time until the claims went to patent.

Senator MALONE. You would bring every one of these men in. They have to make a showing to file with the Secretary of Interior?

Mr. McARDLE. No; they do not have to. As stated this morning, they do not have to come in.

Senator MALONE. If they do not come in, what happens?

Mr. McARDLE. They can come in, but whether they come in or not, their mineral rights are not affected.

Senator MALONE. What is affected?

Mr. McARDLE. Their rights to manage the surface. It gives the Government access across their claims. It gives the Government the right to manage the timber and forage.

Senator MALONE. To show the uselessness of talking to anybody who has no mining experience, how would a prospector know how much timber he is going to need until he hits something of value?

Mr. McARDLE. I do not think he would know, Senator Malone, and there is nothing in this bill that anticipates his future need.

Senator MALONE. You can go in and take the timber off of the claim.

Mr. McARDLE. If there is timber we are taking off, he would be no better or no worse than the man who located where there was no timber.

Senator MILLIKIN. That does not answer anything.

Senator MALONE. That is like a statement that a man would be no worse off with water on his land than a man who located where there was no water.

Mr. McARDLE. There is nothing in this bill, as I understand it, that goes to the question of anticipated future needs of a miner.

Senator MALONE. I think it is obvious because you can take the timber off and it may develop in the following 4 or 5 years that he needs a great amount of timber for his mining operations, and then it is gone.

Senator MILLIKIN. Senator Malone, would you let me ask a question?

Senator MALONE. Yes.

Senator MILLIKIN. Mr. Chairman, would there be an objection to tightening the provisions in this bill whereby if the mining requirements for a claim were not met as far as timber is concerned by taking it away from them that the Forest Service or some responsible Federal agency would supply the timber they need to conduct their mining operations?

Mr. McARDLE. I do not think we would object to that.

Senator ANDERSON. I certainly would not object to it going in the bill.

Senator MILLIKIN. That is what we are talking about and I propose an amendment of that kind.

Senator ANDERSON. I think that would be a clarifying amendment. I can assure you, Senator Millikin, that I do not want anything cleared for any individual who is not going into a mining venture.

I went into one and I needed timber and acquired timber, but I did it in connection with a mining operation. It turned out to be a mistake, but it was my privilege. It was my own money.

Senator MALONE. Once in a while you get a man who will spend a couple of dimes.

Senator ANDERSON. It was a coal mine. Natural gas came in and took my market away from me, just after we put \$200,000 into it.

Senator MALONE. In Virginia City, there was produced a billion dollars. If every dollar that went into those tunnels was subtracted from it, the chances are they did not produce as much as was spent up on the mountain, but that is the way mining is done.

Senator ANDERSON. I think it would be very useful, Senator Millikin, following your questions and Senator Malone's questions along that line, if you would produce an amendment which might be submitted to us so that we could have a chance to submit it to the Interior and Agriculture. It sounds good to me.

Senator MILLIKIN. Thank you very much.

Tomorrow morning we will have Mr. Besley, Mr. Callison, Mr. Hudoba, Mr. Granger and Mr. Palmer.

We will recess until tomorrow morning at 10 o'clock.

(Whereupon, at 5:10 p. m., the hearing was recessed, to reconvene at 10 a. m. Thursday, May 19, 1955.)

MULTIPLE SURFACE USES OF THE PUBLIC DOMAIN

THURSDAY, MAY 19, 1955

UNITED STATES SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D. C.

The committee met at 10 a. m., pursuant to recess, in room 224, Senate Office Building, Hon. Clinton P. Anderson presiding.

Present: Senators Clinton P. Anderson, New Mexico; Alan Bible, Nevada; Richard L. Neuberger, Oregon; George W. Malone, Nevada; Arthur V. Watkins, Utah; and Frank A. Barrett, Wyoming.

Present also: Stewart French, chief counsel, and N. D. McSherry, assistant chief clerk.

Senator ANDERSON. The hearing will come to order. Mr. Besley, of the American Forestry Association, and a number of other witnesses waited all day yesterday to be heard, but the questioning was so detailed and thorough that we were unable to reach them.

Mr. Besley?

STATEMENT OF LOWELL BESLEY, EXECUTIVE DIRECTOR-FORESTER, THE AMERICAN FORESTRY ASSOCIATION

Mr. BESLEY. Mr. Chairman, my name is Lowell Besley, and I represent the American Forestry Association of which I am the executive director-forester.

Senator ANDERSON. Did you hear the questions yesterday about who the American Forestry Association is?

Mr. BESLEY. Yes, sir.

Senator ANDERSON. I know it well but I thought it might be well to have it in the record.

Mr. BESLEY. I have a written statement, sir, which I should like to submit for the record. Do you want me to read it?

Senator ANDERSON. Yes, if you will.

Mr. BESLEY. Our nonprofit, nongovernmental and noncommercial educational organization joins together some 25,000 or 26,000 members all across the country who, as good citizens and as leaders in community, State, and Nation, believe in the protection, proper management, and wise use of our natural resources.

For 80 years the American Forestry Association has ceaselessly fought for a sound national-forest policy and the wise implementation of that policy. Indeed, it was largely through AFA's influence that the great national forests were originally established.

MINING ON PUBLIC LANDS

It is therefore small wonder that we have for some time been seriously concerned with the increasing problem of mining claim abuses on national forests and other Federal forest lands. The mining laws have too often been misused to obtain claim or title to valuable timber, summer homesites, or lands blocking access to water needed in the grazing use of the national forests. Other claims have amounted to private hunting or fishing preserves.

Not only has the use of the surface resources of the claims themselves been denied the public but, in many instances, access to adjacent public lands of much larger extent has been effectively obstructed by the strategic locations of these claims.

This situation has been interfering seriously with the orderly management and development of the surface values and resources of the national forests and other western public lands.

In attempting to correct this undue interference with the proper management of our surface resources of timber, water, forage, wildlife, and fish habitats, and outdoor recreation, great care must be used to avoid a converse undue interference with the discovery and development of minerals by the bona fide prospector and miner.

Our country needs these great mineral resources from the bowels of the earth just as it needs the renewable resources from its surface. Basically, both those primarily interested in the surface and those concerned with the minerals have long recognized the problem created by abuses of the mining laws and have wanted these abuses terminated. But they could not agree upon how to accomplish this.

PAST PROPOSALS FOR CORRECTING ABUSES

I do not need to remind this committee of the many proposals which have been introduced or of the valiant efforts of your committee and the Agriculture Committee during the last three Congresses to arrive at an equitable solution to this problem. These efforts have not been in vain, for as a result of all this study and thought and discussion, you have before you in S. 1713 a unified proposal which we believe will go far toward solving the most serious problems of administering the surface resources without discouraging the continued discovery and development of the minerals.

AFA'S PROGRAM

Perhaps you will better understand our position if I summarize for you briefly a little of the background of this proposed legislation.

After a preliminary conference and full discussion of 800 natural-resource leaders at the Fourth American Forest Congress in October 1953, a new Program for American Forestry, copy attached, was overwhelmingly adopted by referendum vote of the membership of the American Forestry Association.

Section III D, Mining on Public Lands, of this program reads as follows:

Efficient management of many millions of acres of Federal public lands, including the discovery and development of new or known mineral resources, is in the public interest. The legitimate miner and prospector should be encouraged to carry on such work. However, widespread abuses under the existing mining laws as a means of acquiring Government lands for other than mining purposes should be stopped. We, therefore, recommend that Congress revise the Federal mining laws to prevent their abuse by claimants or patentees who use their claims to tie up more valuable timber or other surface resources than they legitimately need to develop the minerals.

SITUATION ON NATIONAL FORESTS

Up until this year unresolved conflicts among leaders have, unfortunately, blocked constructive action. Meanwhile, as evidenced by the table on the next page, the situation has become increasingly acute.

Senator ANDERSON. The table will be made a part of the record.

(The table is as follows:)

Analysis of mining claims on national forests (as of Jan. 1, 1952, and 1955)—Estimates prepared from figures published by the U. S. Forest Service by the American Forestry Association, May 1, 1955

	Ari- zona	Cali- fornia	Colo- rado	Idaho	Mon- tana	Neva- da	New Mexi- co	Ore- gon	South Dako- ta	Utah	Wash- ington	Wyo- ming	Total
Patented mining claims, national forests, as of Jan. 1, 1952:													
Number-----	1.1	3.1	17.0	3.2	5.1	0.7	0.7	1.4	1.0	1.4	1.2	0.8	36.3
Area-----	53	135	300	81	117	12	24	27	74	57	21	18	919
Percent of number ever commercially mined-----	5	14	12	28	17	50	16	22	7	10	8	1	15
Unpatented mining claims, national forests, as of Jan. 1, 1952:													
Number-----	5.0	19.6	9.4	15.8	6.9	2.9	2.3	7.8	2.6	7.8	2.9	0.9	84.0
Area-----	95	583	256	355	133	51	82	267	52	185	72	33	2,164
Volume of timber-----	70	3,460	80	1,170	85	(?)	225	2,301	81	751	751	36	8,266
Estimated value of timber-----	700	50,177	368	8,425	440	(?)	2,000	36,307	542	40	4,111	417	103,527
Value of timber per claim-----	140	2,555	39	532	64	(?)	851	4,756	208	5	1,442	485	1,232
Value of timber per acre-----	7.35	86.00	1.43	23.70	3.32	(?)	24.50	136.00	10.60	0.22	57.50	12.67	47.84
Percent of number producing minerals commercially-----	9.0	0.8	1.0	4.3	1.7	2.0	3.0	1.8	4.5	2.0	2.2	0.6	2.0
Percent valid under mining laws-----	22	30	37	42	46	60	24	55	30	50	52	55	40
Unpatented mining claims, national forests, as of Jan. 1, 1955:													
Number-----	34.3	21.0	16.7	18.4	14.6	6.2	8.7	6.7	4.8	28.4	.3	2.0	166.2
Area-----	684	602	375	408	282	108	223	215	103	583	94	78	3,755
Unpatented mining claims, national forests, comparison 1955 with 1952:													
Number 1955 as multiple number 1952-----	6.9	1.1	1.8	1.2	2.1	1.8	3.7	0.9	1.9	3.6	1.8	2.5	2.0
Area 1955 as multiple area 1952-----	6.2	1.0	1.5	1.2	2.1	2.3	2.8	0.8	2.0	3.2	1.3	2.4	1.7

In the 12 Western States in which there are mining claims on the national forest, there are now in excess of 166,000 claims, covering nearly 4 million acres and tying up many billion board feet of timber worth many millions of dollars.

Three years ago, when there were only half as many claims, there were 81½ million board feet of lumber, worth at 1951 prices, over \$100 million on mining claims alone, not counting the large amount tied up on adjacent areas by obstruction of access. Unpatented claims on these national forests today are more than four times both in number and area all the claims which have ever been patented on these forests under the mining laws.

This fact is even more significant when we realize that only 15 percent of these patented claims have ever been commercial mining operations. Furthermore, of the 84,000 unpatented claims on these national forests as of January 1, 1952, only 40 percent were estimated to be valid under the very liberal interpretations of the present mining laws, while only 2 percent were estimated to be producing minerals in commercial quantities at that time.

The urgency of finding an answer to the problem is evident when we realize that one new claim is now being filed on the national forests every 8 minutes, 167 a day, 5,000 new claims each month.

CONFERENCE ON MINING CLAIMS

It was in this atmosphere that, after exhaustive conferences with Members of Congress and committee staffs, the American Forestry Association asked top leaders of the Departments of Agriculture and Interior and of the mining industry to sit down together around the table in a working conference on February 10, 1955, to try to evolve a workable solution that would eliminate questionable claims while fully protecting the legitimate interests of both the public and the mining industry.

By exhibiting a constructive attitude and a true desire to find a practical answer, and by concentrating on areas of agreement rather than those of disagreement, these representatives were able to forge the framework of the proposal which is before you with your cooperation, Senator Anderson, and that of your committee staff.

At this conference the Forest Service first stated clearly its desires. For new claims, these included:

1. Locator may use so much of the surface as reasonably necessary for prospecting, mining, and development;

2. Locator may use as much of timber on the claim, unless disposed of by the Government prior to use, as is reasonably necessary for prospecting, mining, and development, timber to be cut under sound rules of forest management except in required clearing for mining purposes;

3. Locator may not obstruct or prevent other uses of the surface of the claim if not in conflict with mineral development;

4. Mining claims are or become invalid:

- (a) If not filed for record in the local United States district land office within 90 days from date of location;

(b) For noncompliance with the laws as amended, including insufficient discovery to justify further development and failure to meet annual work requirements;

(c) Upon failure for two consecutive years to file notice of performance of assessment work in the local United States district land office, or

(d) If application for patent not made within 10 years of date of location.

Section 4 of the proposed bill includes the first three items in full. Items 4 (a), (b), and (c), referring to land office records, and (d) limiting the life of claims prior to patent, were not agreed to by the conference.

In general, the conference concluded that recording in the land offices would be a hardship on the locator and extra work for the land office which would be unnecessary and of little use as long as the first three items were put into effect. Likewise, the mining industry representatives were strongly opposed to a time limit on claims because of the close relationship between mineral development and economics. It was pointed out that there are valuable mines today which were in claim status for 25 years or more before it became economically feasible to develop them.

The Forest Service proposed several provisions for patenting of new claims which, in effect, would separate the surface values from the minerals and would require the patentee to purchase, at fair market price, the surface and timber rights on his claim if he desired a fee simple title to the whole claim.

The mining representatives strongly opposed this as a destroyer of incentive and as removing a basic part of the long-established and generally successful patent system. Since agreement could not be reached, the conference omitted this proposal.

In lieu of a costly recording system and time limitation on existing claims, the conference agreed upon the "in rem" procedure provided in sections 6 and 7 of the bill for clearing up expeditiously the claim situation on specific areas of public lands.

The suggested proposal respecting common varieties of sand, stone, gravel, pumice, pumicite, and cinders was likewise agreed to and incorporated in section 3 of the bill.

A further report on this conference and subsequent action is contained in the May 1955 issue of *American Forests*, a copy of which has been sent each of you.

See the editorial on page 7 and *The First Step Toward Correcting Abuses of Mining Laws* on pages 18, 19, and 44. (This article is included with the remarks of Representative Cooley in the appendix of the May 10 Congressional Record, pp. A3140-A3141.)

(COMMITTEE NOTE.—The editorial is also on file with the committee and is a part of its records of this hearing.)

Provisions of proposed legislation: Summarizing, the proposed legislation will:

1. Ban the location of mining claims for common varieties of sand, stone, gravel, pumice, pumicite, and cinders and make them subject to disposal by the United States under terms of the Materials Disposal Act.

2. As to mining claims hereafter located, it would, prior to patent:

- (a) Prohibit use of the mining claims for any purpose other than prospecting, mining, processing, and related activities.

- (b) Authorize the Federal Government to manage and dispose of the timber and forage, to manage the other surface resources, and to use the surface of the claim for these purposes or for access to adjacent land, without endangering or materially interfering with mining operations or related activities.

- (c) Bar the mining claimant from removing or using the timber or other surface resources except to the extent required for mining or related activities. Any timber cutting by the mining claimant, other than that to provide clearance, must be done in accordance with sound principles of forest management.

3. As to mining claims located prior to enactment of this legislation, an "in rem" procedure, similar to a "quiet-title" action, is provided by which the Federal Government can expeditiously resolve title uncertainties resulting from the existence of abandoned, invalid, dormant, or unidentifiable mining claims in any area. This procedure calls for adequate notice to mining claimants in the area involved, and a local hearing, if needed, to determine any rights to surface resources that may be asserted by claim holders. If a mining claimant fails to assert rights to surface resources, or if the rights he asserts are not upheld, or if he voluntarily waives such rights, the claim would fall under the same rules as for claims hereafter located, as in 2 (a), (b), and (c), above.

EFFECTS OF PROPOSED LEGISLATION

From the standpoint of the Federal forest land administrator and from the public using the surface resources, the advantages of this legislation are at once apparent.

The surface of new claims, except for the small areas actually cleared for mining and related purposes may be managed and used just as if there were no claim there. In the case of old claims, the proposed procedure requires the claimants in any specific area being cleared up to come forward and assert their claims to surface resources and, unless the land administering agency waives its right, to substantiate these claims in a public hearing.

If the claims to surface resources are upheld, and it is expected that many will be either voluntarily or involuntarily washed out, their exact locations are made known to the administering agency so that it can plan accordingly.

It is for these reasons that Forest Service representatives have estimated that this legislation would clear up most of their mining claim troubles. Likewise, Bureau of Land Management representatives look upon it with favor as a means of clearing up many troubles without adding undue burdens in the way of the Land Office records specified by certain earlier proposals.

From the standpoint of the bona fide prospector and miner, the principal advantage of the legislation is that it promises to remove the incentive for locating mining claims for purposes other than actual mining operations and related activities without interfering with the rights the legitimate miner now enjoys under the mining laws.

Public condemnation against abuses has fallen indiscriminately upon the whole mining industry, the just and the unjust alike. The

legitimate miner will rejoice in deliverance from this unjust odium. At the same time, he still will enjoy the opportunity of locating mining claims, of mining any minerals found, and of making a profit if he is fortunate enough to discover and develop commercial deposits. Likewise, he can eventually secure his investment with a full title to mining claims when all the requirements for patent have been met.

RESOLUTION OF AFA EXECUTIVE COMMITTEE

At its meeting on April 15, 1955, AFA's executive committee unanimously passed the following resolution:

Resolved, That the American Forestry Association strongly supports the proposed revision of the mining laws which will permit multiple use of the surface of mining claims, both in national forests and on other public lands, and will eliminate the incentive to locate mining claims for purposes other than actual mining operations and related activities.

This legislation has been placed before the Congress in identical bills introduced by Representatives Dawson, Utah; Fjare, Montana; Young, Nevada; H. R. 5561, 5563, 5572, respectively, and in those which will be introduced or sponsored by many others on succeeding days.

We wish to thank the leaders of the Departments of Agriculture and Interior and of the mining industry who, upon our invitation, sat down together in a working conference and resolved their differences in order to formulate the constructive and sound principles upon which this proposed legislation is based. We wish to thank the representatives of these three groups who drafted the bills incorporating these principles. And we wish to thank the Senators and Representatives who have so enthusiastically undertaken the responsibility of introducing this legislation and who will support it in the Congress. We believe the enactment will be a tremendous step forward in correcting and preventing abuses and in enabling more efficient and more beneficial administration of the surface resources of our national forests and other public lands subject to the mining laws. Therefore, we urge all groups and individuals to join with us in strongly supporting this forward-looking legislation.

In conclusion, I should like to thank you, Mr. Chairman, and your committee, for the privilege of appearing before you on behalf of the American Forestry Association in full support of this sound, constructive, and urgently needed legislation.

I think that all of you received copies of our March issue which commemorates the 50 years of the United States Forest Service, and we were very pleased to have that opportunity to pay tribute to them and to trace their development over the years.

Senator ANDERSON. How long has the American Forestry Association been in existence?

Mr. BESLEY. We were founded in 1875, sir. At our first American Forest Congress back in 1872, there was the proposal for the forest reserves and the second one in 1905 was the one that set up the proposal for the Forest Service.

As you know, several of your predecessors as Secretary of Agriculture served as presidents of our association. Our present directors and officers are listed in the bookmark which is in the material I furnished you.

Naturally, having been so interested all through the years in the Forest Service, we have been extremely concerned with this problem of mining claims because we feel that it has been a serious detriment to the proper management of our national forests. It, of course, is a detriment to other Federal public lands, that is, these mining claim abuses.

It is unnecessary, I am sure, for me to repeat what the witnesses said so ably yesterday, tracing just how serious the mining claim problem is, but, as you know, Mr. Chairman, we, as an association, have no particular interest, as Mr. Hoffman mentioned yesterday; we do not represent the lumber industry although we are very proud to claim among our members a number of people in the industry, including Mr. Hagenstein, who testified yesterday, and he is a life member of our association.

Senator ANDERSON. He in turn represents some people that I have known for a long time. They are fine foresters.

Mr. BESLEY. Exactly.

Senator ANDERSON. Their lumbering and forestry practices are top-notch.

Mr. BESLEY. That is quite so. As a matter of fact, as you probably know, the Industrial Forestry Association is not a typical trade association but is an association of forest land owners of which, of course, a number of them are pulp and paper companies and lumber companies out in the Pacific Northwest. But they are primarily people who are interested in forestry and that is why they call themselves the Industrial Forestry Association.

We are very proud of our membership and of the objectives in the American Forestry Association. We feel that we represent to some extent the general public interest because we are not interested only in the timber but we are also interested in the forage and wildlife and fish habitats which the forests furnish, and we are very happy to have the support of groups who are interested particularly in one or more phases in connection with the national resources which the forests furnish or which are collateral to them.

I do not, of course, need to go into the history of how earnestly Congress has worked over this problem for many years. We feel that it has become extremely urgent that with the, as I understand, 8 new claims every minute on the national forests, and there are already 186,000, with the claims on the national forests having doubled in the last 3 years, that when we have today five times as many claims as has ever been patented back as far as the mining laws were established in 1872, and when we recognize that over half of the claims are believed to be invalid, certainly something must be done and must be done promptly.

I should be very upset if this problem is further delayed because we have worried about it for a great many years and it was one of the points in our program for American forestry which we drew up after careful consultation with the conservation leaders in every line of natural resources in the country after our forest congress in October 1953, at which there were about 800 leaders in the various fields of renewable natural resources.

We have arrived at a program for American forestry which we are trying to implement.

If you will notice where the bookmark is in the program, you will notice that one of the important points in this program has to do with mining on public lands. I might quote, it is a very short quotation:

Efficient management of many millions of acres of Federal public lands, including the discovery and development of new or known mineral resources, is in the public interest. The legitimate miner and prospector should be encouraged

to carry on such work. However, widespread abuses under the existing mining laws—namely, efforts by individuals to use the mining laws as a means of acquiring Government lands for other than mining purposes—should be stopped. We, therefore, recommend that :

1. Congress revise the Federal mining laws to prevent their abuse by claimants or patentees who use their claims to tie up more valuable timber or other surface resources than they legitimately need to develop the minerals.

In order to implement this recommendation, we have recognized the problem as you have, sir. We have tried to figure out some solution. We have backed some of the legislation in the past which we thought was aimed at that solution and it has been unsuccessful because we had a conflict of interest in that the previous legislation was felt by the mining people themselves to curtail and to detract from the proper discovery and development of the mineral resources of this country.

We felt that the best way was to try to get the various groups together to see if we could not work out a system which would be reasonably satisfactory to all and which would help to correct this situation.

With respect to the background of this particular legislation, I believe that we have some responsibility for it. On February 10 we called a conference at our office among the top leaders in the mining industry, with representatives from the American Mining Congress there, with representatives from the Forest Service in the Department of Agriculture, and with representatives from the Department of Interior. And I should like to pay tribute to those men who worked all day long very hard on this problem, who went into that conference with considerable differences of opinion, and who kept their eye on the ball, so to speak, and concentrated on points of agreement rather than on points of disagreement and have constructively laid down some principles which have been embodied into this legislation.

Consequently, we feel that this legislation may not be perfect but it certainly goes a long way toward clearing up one of the—to us—very serious sore spots in the administration of our Federal public lands.

Consequently, my board of directors has authorized me to appear before you and to recommend very strongly the passage of this bill, S. 1713.

Mr. Chairman, I could give you lots of other reasons but I do not want to take your time, with all of the witnesses that you have. I will be glad to answer any additional questions that you might have.

Senator ANDERSON. Thank you very much.

We will take this pamphlet, A Program for American Forestry, for the files.

Any questions, Senator Bible?

Senator BIBLE. I have no questions.

Senator ANDERSON. Senator Barrett?

Senator BARRETT. No questions.

Senator ANDERSON. Thank you, sir.

Mr. BESLEY. Thank you, gentlemen.

Senator ANDERSON. Mr. Callison?

STATEMENT OF CHARLES H. CALLISON, CONSERVATION DIRECTOR,
NATIONAL WILDLIFE FEDERATION, WASHINGTON, D. C.

Mr. CALLISON. Mr. Chairman and members of the committee, my name is Charles H. Callison and I am conservation director of the National Wildlife Federation.

I wish to thank you for the privilege of presenting the views of the National Wildlife Federation on the proposed solution of the mining claim problem on the public lands.

The federation is a national, nonprofit organization whose member are State wildlife federations or sportsmen's leagues in the various States and Territories. We have affiliated organizations now in every State except Georgia, and also in Alaska and the District of Columbia. Through their member clubs and associations these affiliate groups represent some 3 million conservation-minded citizens.

For years conservationists have advocated reform of the mining laws for the purpose of correcting a situation which has widely complicated administration and development of the resources of the public lands.

Thousands of mining claims have been filed by persons described recently by Congressman William A. Dawson as "weekend miners." Their real purpose was not prospecting or mining at all, but rather to secure control of valuable timber or choice sites for fishing camps or summer homes. In some instances the claim sites have been used for commercial ventures bearing no relation to mining.

A recent boom in uranium prospecting has heightened the problem. No one knows what proportion of the total are legitimate mining operations but by January 1, 1955, the Forest Service estimated that 166,000 claims had tied up over 4 million acres of the national forests.

In some forest units, the Service finds itself unable to make a timber sale because both access and timber rights are frozen by mining claims.

In many areas of the West, the confused pyramiding of claims has practically paralyzed the management of the timber, range, and wildlife resources of the national forests. While not so many related resource uses may be involved on the public-grazing lands and on other portions of the public domain, the situation nevertheless is equally serious in many areas outside the national forests.

At their most recent annual convention, held March 11-13 at Montreal, Quebec, the State representatives who make up the voting membership of the National Wildlife Federation adopted a resolution endorsing the principles of the bill introduced by you, Mr. Chairman, S. 687, and the similar bills introduced in the House by Congressman Clifford R. Hope, H. R. 110, and Congressman Harold D. Cooley, H. R. 3414.

Parts of the bill under consideration at this hearing are identical in effect to certain sections of S. 687, and H. R. 3414, the Cooley bill, as they relate to deposits of common varieties of sand, stone, gravel, pumice, pumicite, and cinders. The federation has long favored taking such materials out from under the operations of the general mining laws and making them subject to the Materials Disposal Act of July 31, 1947, as here proposed.

Other sections of S. 1713 do not go as far as the earlier Anderson, Hope, and Cooley bills in separating surface rights from mineral rights in the national forests, and in reforming filing procedures.

This new bill, however, does have other advantages that persuade us to support it. Its corrective features would apply to all of the public lands, not just to the national forests.

It does provide a procedure through which, on given areas of the public domain, claimants can be challenged to show that their claims are legitimate and defensible. Thus, depending on the personnel and funds which may be made available for the purpose, the records and the lands may gradually be cleared of the clutter of phony claims.

As the name of our organization indicates, Mr. Chairman, the membership of the National Wildlife Federation has a special interest in the wildlife resources of the public lands and in the recreational opportunities which those resources may provide to the public.

I don't have to remind this committee of the importance of recreational use of the public lands. The Forest Service last year recorded more than 40 million recreational visits. Over 10 million of these visits were by hunters and fishermen.

Under present law a mining claimant may post his claim against trespass and deny access to a hunter or fisherman. He may deny access also to an agent of the Federal Government who may desire admittance for purposes of managing wild game habitat or improving a fishing stream. Indeed, many claims have been filed apparently for that very purpose.

Claims have been filed astraddle fishing streams, and sportsmen wading those streams have been forced to turn back. Other claims have been filed and posted at points to restrict public access to a good hunting area.

Thus, under the present law, mining claimants have been able to thwart the public harvest and proper management of fish and game resources on the public lands.

We interpret the language of section 4 (b) of S. 1713, Mr. Chairman, as corrective of this situation.

A claimant who files pursuant to this act will not be able legally to post his claim against trespass by hunters or fishermen. He cannot deny access to the Federal Government or its licensees or permittees when access is intended for the purpose of harvesting or otherwise managing the fish and wildlife resources, so long, of course, as such access does not "endanger or materially interfere with prospecting, mining, or processing operations or uses reasonably incident thereto."

In view of these considerations, we recommend that S. 1713 be reported favorably by committee and enacted by the Congress.

I thank you very much, Mr. Chairman.

Senator ANDERSON. We appreciate your coming here personally to do this because I know you were here and waited a long time and had to leave, and we are glad you came back.

Do you have any questions, Senator Bible?

Senator BIBLE. I was just wondering, Mr. Chairman, if section 4 (b) does what you claim it does, Mr. Callison. I was reading 4 (b) and I am wondering how that is brought about practically.

Mr. CALLISON. Senator Bible, we interpret section 4, subsection (b) as guaranteeing access for hunters and fishermen or for agents of the

Government for purposes of managing wildlife resources because of the language which says:

Rights under any mining claim hereafter located under the mining laws of the United States shall be subject, prior to issuance of patent therefor, to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof.

Wildlife resources, wildlife and wildlife habitat, or other surface resources thereof.

Senator ANDERSON. In other words, a man might want very much to fish along a stream. However, at the present time anyone could file a claim along the stream—he could file several of them in succession, in fact, as illustrated by the timber man yesterday. In practice, a mining claimant could pretty well block the stream for fishermen by saying that you cannot fish or wade in the stream.

Mining claimants control the entire surface for all purposes, under the present mining law, do they not?

Mr. CALLISON. They certainly do and that very thing has happened in many places in the West and is happening today under the present mining laws.

The next sentence of subsection (b) also applies to that problem, section 4 (b), which says:

Any such mining claim shall also be subject, prior to issuance of patent therefor, to the right of the United States, its permittees and licensees, to use so much of the surface thereof as may be necessary for such purposes or for access to adjacent land.

While in most national forests no special written or formal permit is required by the Federal Government of hunters and fishermen, still they are permittees by virtue of their being permitted to harvest wildlife resources.

Under the laws of the States, the game and fish laws of the States, we have cooperative arrangements with the Federal Government for those purposes.

Senator BIBLE. You think that is sufficient as drafted now, Mr. Callison, to accomplish your purpose?

Mr. CALLISON. Senator Bible, according to our advices and according to our interpretation of the law, it will take care of this situation, our interpretation of the law, rather.

Senator BIBLE. As a practical matter, if I am a fisherman and I have a residence in Nevada and I want to go to Senator Barrett's mining claim across the Truckee River, he has a no trespass sign, what happens if I go across there? Does that fishing license give me access across this stream to his mining claim?

Senator WATKINS. You mean prior to patent?

Senator BIBLE. No. Under section 4.

Senator WATKINS. Prior to patent?

Senator BIBLE. Prior to patent if he has an open mining claim?

Mr. CALLISON. That would be true on claims filed pursuant to this act.

Senator BIBLE. That is what I mean, after this act goes into effect.

Mr. CALLISON. Yes.

Senator BIBLE. You interpret that to mean that after I show my fishing license to Senator Barrett that I can go across the property?

Senator ANDERSON. You may be able to, providing he does not assert he needs the surface for mining operations. He can only have so

much of the surface as is necessary for mining operations. Theoretically, he cannot go down the stream on the public domain and say, "You cannot indulge in any fishing because I have a claim here," unless he is actually using the stream banks for mining purposes.

Senator BIBLE. I was wondering if it was practically accomplished. I feel there is an area where they should not use mining claims to prevent fishermen.

Senator WATKINS. The Senator realizes that that is what is being done many times now?

Senator BIBLE. I understand.

Senator WATKINS. Under the present law.

Senator BIBLE. This is to correct that?

Senator WATKINS. In other words, there is no objection to a miner doing the things that a miner ought to do to develop a mining claim, but when he uses that as a subterfuge to tie up public domain where he does not have a legitimate mining claim, this bill is intended to correct that sort of abuse.

Senator BIBLE. The only purpose of my question was to determine from Mr. Callison if he felt that section 4 did permit the fishermen to go on the stream under those circumstances. I understand his answer is yes.

Mr. CALLISON. Mr. Chairman, in that connection I have a comment here from Seth Gordon, director of the department of fish and game of the State of California, raising the question of access by hunters and fishermen as a result of the present mining laws, and he attaches an opinion to that by the office of the attorney general of the State of California, and an analysis of how the present laws are interpreted to deny access to hunters and fishermen.

I should like to submit that for the record.

Senator ANDERSON. I think it ought to be printed in the record at this point.

(The information referred to follows:)

STATE OF CALIFORNIA DEPARTMENT OF FISH AND GAME,
Sacramento, Calif., January 13, 1955.

Mr. CHARLES H. CALLISON,
Secretary, National Wildlife Federation,
Takoma Park, Washington, D. C.

DEAR CHARLIE: No doubt you have heard something of the difficulties we out here in the West are facing with the posting against all trespass of thousands of new mining claims. Our problems have been particularly aggravated by the multitude of recent uranium claims being filed, which in some cases blanket entire important watersheds.

The gravity of the situation prompted us recently to request an opinion from our attorney general, copy of which is enclosed.

I have today written to the directors of the 11 Western States asking that they give me a sizeup of their problems in this regard, and what steps they have taken so far to combat this serious threat to the use of our public lands by the sportsmen and other recreationists.

We should all, without delay, put forth our best efforts to get quick remedial legislation on the Federal level. We should not wait until we can get general mining-law revisions, although this particular situation could be used to build up public demand for prompt action on the entire problem.

The Federal law should definitely require that in the issuance of mining claims the right to hunt and fish shall be reserved to the public.

I strongly urge that the National Wildlife Federation take immediate action to initiate necessary remedial legislation and promote a campaign to assure

the Nation's sportsmen the right to hunt and fish without hindrance by mining claims.

Hoping you will tackle this problem without delay, I am, with best regards,
Sincerely yours,

SETH GORDON, *Director.*

OPINION OF EDMUND G. BROWN, ATTORNEY GENERAL; AND RALPH W. SCOTT, DEPUTY ATTORNEY GENERAL

STATE OF CALIFORNIA,
OFFICE OF THE ATTORNEY GENERAL,
January 10, 1955.

W. T. Shannon, Deputy Director of the Department of Fish and Game, has submitted the following questions:

1. "May an angler fish along a stream or river which runs through a posted mining claim?"

2. "May a hunter walk over a mining claim on public domain or national forest lands?"

3. "Is it legitimate for the owner of (a) claim to post such areas against trespass?"

Our conclusions are summarized as follows:

A locator of a mining claim who in good faith complies with requirements essential to a valid location is entitled to exclusive possession of the claim and may maintain trespass against anyone entering the claim without his permission. Assuming the stream or river mentioned in question (1) is not navigable and has not become a public highway under the provisions of Government Code sections 25660-25662, an angler may not fish from that portion of the stream or river which runs through a valid mining claim posted against entry.

Question 2 is answered negatively provided the claim is posted against entry or trespass is otherwise prohibited by Penal Code section 602 or section 627.

Assuming the validity of the mining claim, the owner thereof may post such area against trespass.

ANALYSIS

The general policy of Federal mining laws is to permit the widespread development and exploitation of the Nation's mineral deposits and to afford mining opportunities to as many persons as possible (*cf. United States etc. v. Ickes*, 98 F. 2d 271, cert. denied, 305 U. S. 619, 83 L. Ed. 395; *Conger v. Weaver*, 6 Cal. 548). To that end Congress enacted legislation many years ago opening the public lands of the United States, not otherwise reserved, to location and patent, for the purpose of extracting minerals therefrom. This legislation is codified in United States Code, title 30, sections 21 et seq. In brief, the lands which are subject to location as mining claims must contain valuable mining deposits, must belong to the United States, and must be unoccupied and unappropriated at the time of location (*cf. South. Calif. Ry. Co. v. O'Donnell*, 3 Cal. App. 382; 17 Cal. Jur. 282). It is settled that a mining claim, once perfected and maintained under law, is property in the fullest sense of that term and may be sold, mortgaged, partitioned, or taken under execution without infringing on the title of the United States (*Brown v. Luddy*, 121 Cal. App. 494; *Van Ness v. Rooney*, 160 Cal. 131; *Wallace v. Hudson*, 170 Cal. 596). For all practical purposes a valid mining claim is an estate in fee (*Buchner v. Malloy*, 155 Cal. 253). It follows that the locator of a valid mining claim is not a mere licensee but is the absolute owner of an estate and cannot be deprived of inchoate rights by the tortious acts of others (*Gobert v. Butterfield*, 23 Cal. App. 1; *Watterson v. Cruse*, 179 Cal. 379; *Dalton v. Clark*, 129 Cal. App. 136). Under Federal law the locators of mining claims have " * * so long as they comply with the laws of the United States, and with State, territorial, and local regulations not in conflict with the laws of the United States governing their possessory title, * * * the exclusive right of possession and enjoyment of all the surface included within the lines of their locations. * * *" (30 U. S. C. sec. 26).

In keeping with this section it has been consistently held in this State that the locator of a mining claim is entitled to all of the privileges and incidences pertaining to the soil and his possession of the claim is sufficient to protect him against trespassers (*Crandall v. Woods*, 8 Cal. 136; *Rowe v. Bradley*, 12 Cal. 226; *Lightner Mining Co. v. Superior Court*, 14 Cal. App. 642; *Empire Star Lines Co. v. Butler*, 62 Cal. App. 2d 466; *cf. also Page v. Fowler*, 37 Cal. 100; *Grover v. Hawley*, 5 Cal. 485; *Brandt v. Wheaton*, 52 Cal. 430).

While none of the cases mentioned in the foregoing paragraph involve trespass by hunters or fishermen, it follows as a matter of general application that the possessory rights of a mining claimant who in good faith complies with requirements essential to a valid location, entitles him to post the property against entry by fishermen and hunters (Pen. Code secs. 602, 627). It is elementary that every unauthorized entry upon the land of another is a trespass. However, if the stream or river mentioned in the first question is navigable or has been declared a public highway pursuant to Government Code sections 25660-25662, public entry cannot be denied. Within the limitations of fish and game laws, a person has the right to hunt or fish at any place where he may lawfully go, but the public has no right to invade or cross private lands in order to reach public lands or public waters (*Bolsa Land Co. v. Burdick*, 151 Cal. 254).

Mr. Shannon points out that many of the claims are located "solely for the purpose of obtaining a cabin site and then posted against trespass, commonly in areas which have always been open picnic areas." What we have said hereinabove with respect to the possessory rights of the locator of a mining claim is based upon the assumption that the claim is located in good faith and that the locator has complied and continues to comply with all the requirements of law with respect to the claim such as making improvements, etc. It is quite obvious that possessory rights of the locator depend upon the validity of the location or the legality of his claim. Mining laws do not contemplate the location of mining claims solely for the purpose of permitting the locator to build a cabin thereon for recreational purposes. Each case therefore will stand on its own merits, and if a person is denied access to the lands embraced within a mining claim, he will have the burden of establishing his right of entry by proving the invalidity of the claim (*cf. Watterson v. Cruse*, 179 Cal. 379; *Calif. Dolomite Co. v. Standridge*, 128 A. C. A. 756).

Article I, section 25, of the California Constitution does not appear to be applicable here, for the reason that that provision of the Constitution does not affect Federal public land but only pertains to State public land (*cf.* 22 Ops. Cal. Atty. Gen. 134, 136). As pointed out hereinabove, mining claims can only be located upon lands belonging to the United States.

Senator NEUBERGER. May I ask Mr. Callison one question?

Senator ANDERSON. Yes.

Senator NEUBERGER. You mentioned in your written testimony, Mr. Callison, that you felt while you support S. 1713, it did not go as far as you would like.

In what particular respect did you want it to go farther?

Mr. CALLISON. Well, we still think there will be an inducement for individuals to file mining claims that even under this act will be done for the purpose of gaining title to timber resources rather than mining.

The standing timber in many areas of the national forests is so valuable that there will still be an inducement under this bill.

Senator NEUBERGER. In other words, there is nothing to prevent a man who secures patent and secures a claim from harvesting the timber.

Mr. CALLISON. That is right, after it goes to patent the timber is his. In many instances he may prove a patent on a mining operation which amounts to very little, not enough to encourage a prudent man to proceed but he would acquire title to timber worth far more than any minerals.

Senator WATKINS. Does he not have to go much further than that to get a patent?

Mr. CALLISON. Yes, I think he has to show that he does have a legitimate and proper mining operation but still the timber may be worth more.

Senator WATKINS. That could possibly happen provided it was on a placer claim, but on a small load claim that would not be true. If it is a heavy timbered area, he would use some timber for mining operations?

Mr. CALLISON. Yes.

Senator WATKINS. Then he would be permitted to clear the timber off so he could operate?

Mr. CALLISON. Yes, sir; he is entitled to do that.

Senator WATKINS. For buildings and other things he would have to build. Suppose he had an ordinary sized claim?

Mr. CALLISON. I understand on that even on 20 acres of some of the national forest lands of Oregon and California, the timber may be worth \$15,000 or \$20,000.

Senator NEUBERGER. That is right.

Senator WATKINS. It could be possible on some of them.

Senator NEUBERGER. We had a situation just recently in Oregon, Senator Watkins, where 15 controversial claims, and it was denied that there was sufficient mineralization by both the Bureau of Forest Service and Bureau of Land Management, and yet the Secretary overruled both of those agencies on the basis of a private assay and gave the company patent and they commercially logged the timber on that, not for the use in access or using it for pit props or something like that. They commercially logged it for sale and the Forest Service tells me that the sale amounted to well over \$12,000.

Senator WATKINS. Yes.

Senator MALONE. How many claims?

Senator NEUBERGER. Fifteen. There were 23 claims involved. A patent was granted to eight without controversy. Fifteen were denied by both the Forest Service and the BLM, but the Secretary overruled them on a basis of a study made by a Mobile, Ala., assay corporation.

Senator BARRETT. Mr. Chairman, I would like to ask the witness a question. I understood him to say certain abuses with references to the harvesting of timber would or might occur under this legislation; is that right?

Mr. CALLISON. No; I did not intend to say that. I said there would still be an inducement to certain individuals who file mining claims when their main purpose would be to get the title to the timber rather than for mining purposes.

Senator BARRETT. Under this legislation how could they take advantage of timber resources by these phony filings that you speak of?

Mr. CALLISON. Perhaps it could not be called a phony filing in that sense.

Senator BARRETT. Any kind of filing, whether phony or otherwise?

Mr. CALLISON. When it goes to patent, they would get title. I was making a comparison to the earlier bill introduced by Senator Anderson.

Senator BARRETT. Well, then, what you are talking about is after patent, not before?

Mr. CALLISON. Yes.

Senator WATKINS. But after patent, then, you get the title to the fee of land?

Mr. CALLISON. Yes.

Senator WATKINS. And all that goes with it and you have established the main purpose apparently conclusively.

Senator BARRETT. After you have proved up as a mining claim.

Senator WATKINS. After you have proved that it is a mining claim, and it is a legitimate claim, and you are not there for any other

purpose, that is not in keeping with the objectives of the mining setup.

Mr. CALLISON. That is right.

Senator BARRETT. There is one other statement that I think is rather ambiguous and I am sure you did not intend it.

It is this one on page 2 where you say :

It does provide a procedure through which, on given areas of the public domain, claimants can be challenged to show that their claims are legitimate and defensible.

This legislation does not go quite that far, does it, Mr. Callison?

Mr. CALLISON. Perhaps my use of wordage there is not exactly correct, but what I mean by that was the procedure that is provided in this bill may be used by the Forest Service acting through the Department of the Interior, or by the Bureau of Land Management, through the Department of Interior, through various processes of notifying the claimant to arrange for hearings at which they can go into whether or not the claimant has a legitimate claim, one that can be defended.

Senator BARRETT. I do not think it goes that far; that is the point I am trying to bring out. I think the validity of his mining rights or his right to harvest the minerals from that land are not in question, only the question of the use of the surface resources.

When he gets through, the man can continue to exert his rights to recover any minerals on the claim, even though he may not use the surface except as incidental for that purpose.

Mr. CALLISON. That is essentially true, I believe, Senator Barrett, but I think at the hearing the Government would have an opportunity to show that it was believed he did not have a sufficient showing of minerals. They would have an opportunity at that time.

Of course, he could refile again but then he would refile subject to the provisions of this act.

Senator BARRETT. Yes; he would refile subject to the provisions of this act.

I do not think the purpose of the bill is to question the validity of his mining claim as such. I do not think there is any effort there to deny the man the right to proceed with the orderly development of the claim for mineral purposes.

Mr. CALLISON. I agree with you on that, sir. As you say, my sentence was ambiguous.

Senator BARRETT. I think that is a point we ought to make abundantly clear because that will be very important to these small miners that they will certainly not be subjected to the possibilities of having the right to continue the mining operations attacked by reason of this procedure.

Senator ANDERSON. I do not think there is a possibility of it; certainly that is not the intent and we will state that in the report and on the floor. There could not be any question on that.

Senator WATKINS. They would have no authority beyond stopping the legal operation. They may not be exactly illegal but they are not in keeping with the purposes of mining.

Mr. CALLISON. That is what I intend it to mean when I say challenging to show that their claims are legitimate. I did not mean that there would be opportunity to challenge that mining operation.

Senator WATKINS. This bill would not be necessary if these people had gone ahead and tended strictly to the mining business and nothing else, but they use this apparently as a no-man's land as far as the law is concerned, a rather hazy situation, and use that to develop other interests other than mining.

Senator ANDERSON. Are there additional questions?

Senator MALONE. Mr. Chairman, I would like to say at this time that the thing that disturbs some of us is the continual pressure from all sides, not only on this mining situation but in other situations so that we make the man who is trying to do something, put him on the defensive. You come in the doors and they come in the windows. Close the windows and they come up through the cellar floor.

We had a Secretary of Interior for almost 20 years and he was continually running out of petroleum. He was continually also attacking certain features like the depletion allowance, and if he could have won that fight, he would have run out of oil.

Of course, that is obvious now to everybody. He was not successful in abolishing the depletion allowance and now the oil runs out of our ears, but he ran out of it for 20 years.

Now, we had another situation here that has been fought through the Congress and extended. Now a worker or investor in any industry in this country has to show that his job or his investment is important to national defense in order to be protected.

Now we come to the mining claims and we have the picture of the United States Forest Service and the Bureau of Land Management making an investigation to determine whether a mining claim has any possibility of success.

I have not yet made the acquaintance of anybody in either of those services that knows anything about mining. They are not supposed to. They are built up for another purpose. Still, the witness says that they both made an investigation and they saw no possibility of success and therefore they turned this man down.

The Secretary, on an assay of a reputable assaying outfit, granted a patent.

Now, Mr. Chairman, what I think you are doing with this bill is putting the prospector on the defensive.

It was well established here yesterday morning by one of the witnesses, Mr. Holbrook, that now in order to make a case against a miner on a claim, it must be initiated in the department. It can be done, and if it can be shown that he has not located it for a mining purpose, it can be declared out of bounds.

However, he said it is quite a bit of work for the department to do that so they want something that puts the miner on the defensive so that he has to prove himself before their department that he has a legitimate mining operation.

Now, this is not to say that there are not abuses in all these things. For example, the homestead extension, there is a section that they could file on. All these things are abuses, veterans' pensions are abused. Pretty nearly everything suffers some abuses, but I want to call it to the attention of the distinguished witness here who represents the National Wildlife Federation, and I am in entire sympathy with the wildlife efforts to make available and improve the hunting and the fishing and all of the work in that connection.

We have it in our own State, a good outfit handling it, and they are trying to do a good job and I am trying to help them, but I am not trying to help them beyond their field.

I want to ask the witness what happens on a farm with respect to fishing rights?

Suppose a man owns a piece of land and it happens that a stream runs through it, what are the rules and regulations that affect the Wildlife Federation?

Mr. CALLISON. The owner of private property, private land, Senator, of course, has complete control of trespass. He can post it and keep them off.

When a mining claim goes to patent, the patentee will have similar rights.

Senator MALONE. Are you against all this?

Mr. CALLISON. No, sir.

Senator MALONE. Let me say this to you in all friendliness, that since 1872, when a man goes out and sets up a stake and starts to work his claim and fulfills all of the criteria, all of the rules and regulations laid down in the law to all intents and purposes, as long as he fulfills those regulations of the law, he owns that land. When he quits doing that, he has no rights. You understand that, do you not?

Mr. CALLISON. I understand that he has the right under the present law to post his mining claim; yes, sir.

Senator MALONE. Even if it is just a location, but his assessment work is done and he has full rights.

I have heard this delineated several times in the last 2 or 3 days that naturally you do not object after he gets a patent, but he owns that claim as long as he has his notice up and his location is filed with the county clerk and he has done his assessment work and he is just as proud of that little piece of land and is doing at least the amount of work that the law requires as after he patents it.

I would like for you to explain to me after I say something to you about a homestead why you object to a man controlling it when he has complied with the law, when you do not object after he gets a patent.

Now, this country was mostly settled up west of the Ohio River on homesteads. When a man goes out there and files a homestead, complies with the law, it takes him 3 years to get a patent. You are familiar with that, are you not.

Mr. CALLISON. Yes, sir.

Senator MALONE. Did you have any idea that he had any more rights when he got the patent than when he was filing on his homestead and was complying with all the laws? Do you have any idea that he had any more rights after he got patent than he had when it was underway?

Mr. CALLISON. No; I did not.

I think, Senator Malone, that the situation here is somewhat different in that there are other legitimate rights and interest in the public lands that are subject to mining claims, in addition to the locator's interests, that need to be protected. Some of those rights and interests involve just as much free enterprise and just as much American spirit as the mining enterprise, and I am speaking of the commercial harvesting of timber and the use of those lands for grazing purposes.

Those require certain things and are to the benefit of free enterprise and initiative and all the things that we call American just as much as the mining claim procedures.

Senator MALONE. Have you ever had any experience in the matter of mining or grazing?

Mr. CALLISON. I have in the matter of grazing.

Senator MALONE. Where are you from?

Mr. CALLISON. I was born on a homestead in Alberta.

Senator MALONE. Alberta, Canada?

Mr. CALLISON. Alberta, Canada. My parents were Missourians who went to Canada and homesteaded.

Senator MALONE. When did you come back?

Mr. CALLISON. I have lived in the United States since I was 6 years old.

Senator MALONE. What did you do after you got through school?

Mr. CALLISON. I grew up on a farm in Missouri after they came back to the United States.

After I got through school I have been in newspaper work and in conservation work since.

Senator MALONE. Well, I have been in this business that you are discussing. I have patented many of these claims, have been with these miners and livestock men for 40 years.

Mr. CALLISON. I know that is true, sir.

Senator MALONE. I want to say this to you. What all of us would like to do is not to handicap any other use but not to handicap the original purpose of the bill.

For 20 years there has been an attempt to get control in Government here in Washington. How long have you been in Washington?

Mr. CALLISON. Four years.

Senator MALONE. Well, that is too long. Nobody is normal here after 3 months unless they go back out there where they are earning a living the hard way. Every one of these people in Government begin to believe their clippings and think that, being a graduate of some college, they know everything about the public lands.

As a matter of fact, if you go back a little further until 1934, the policy of the United States Government in relation to public lands was holding them in trust for the States until they could figure out some way, homestead, mining, or some other way, to get them in private hands and let them get on the tax roll.

In 1934 they passed the Taylor Grazing Act. There never had been any charge for public lands. They were always looking for a way to give them to people to use them. They were always giving away good land from Ohio west for a \$15 filing fee, and all you had to do was to comply with the law; that was the duty of the Federal Government officials to see that they complied with the law.

Now, when they got out to western Kansas, where 160 acres was just a kind of aggravation and not enough to make a living, they passed a homestead extension, another 160 acres, and you could get 320. Are you familiar with all this business?

Mr. CALLISON. I am familiar with it.

Senator MALONE. You know it happened?

Mr. CALLISON. Yes, sir.

Senator MALONE. Why did they pass that additional 160? So that the man could make a living.

They got out on the mesas in Colorado and that became an aggravation, so they passed what they call the Stock Homestead Act; I do not have it exactly right but that was where you could file on 640 acres. Are you familiar with that?

Mr. CALLISON. Yes, sir; I am familiar with the history generally and I have personal experience.

Senator MALONE. Many of them went across the short-grass country, across Colorado and Utah. Then you got into the Great American Desert, and that includes a part of my State, and 640 acres was just an aggravation because the investigations of the United States Geodetic Survey said that an average, not every acre, some parts of very few acres can support a cow but in some places they cannot walk far enough in a day to get enough to eat. So the average in the whole State is 140 acres per cow unit, 40 acres per sheep unit.

Now, you are not talking about acres then, you are not talking about sections; you are talking about townships when you start talking about enough cattle and sheep to make a living for a family. A band of sheep or 250 head of cattle or whatever it is, in other words.

Now, to bring you up to date on that, gradually they are changing the objective of the Government, not now to hold the lands in trust for the States until they can find some way to put them in private ownership, but some way of getting tighter control in Washington.

I only mention these other approaches to show you that this is not the only approach. The petroleum approach through Mr. Ickes, he made a thousand speeches that we would be out of oil. You had to save this for war, not having any knowledge that the only way you find additional supplies of gas and oil is to make it profitable for what you have.

Now, when it was made profitable, and through the depletion allowance it was gambling money, that is all it was. Now you do not know what to do with your oil. We are importing oil and shutting down our own wells, but it is an approach to do just what you are trying to do and you do not even know it.

I do not want to say you do not know it; your testimony does not show it. Maybe you do know it. If you do, it is worse.

We have passed something here in the last few days that when it was passed in 1934, it changed a 100-year-old policy. We always protected a worker and the investor to the point of difference in the cost. Now we have a 3-year extension of the thing that a worker and an investor has to show that he is important to national defense to live.

Now we come in with this thing here. I know the mining law has been abused. I know every law on the statute books has been abused; I know every regulation of a city in driving is abused. I do it sometimes myself, although not purposely, but we all do it.

What do we do; abolish the driver, or do we tighten the restrictions?

Senator ANDERSON. There is nothing in the bill that tries to abolish the miner.

Senator MALONE. I know what is in the bill.

Senator ANDERSON. It does not try to abolish the miner.

Senator MALONE. What you are trying to do is put the shoe on the other foot and put the miner on the defensive.

SENATOR ANDERSON. I think you ought to state what is in the bill.

SENATOR MALONE. I am talking about what is in the bill. You are breaking the ice, you are starting it. Every man that has been on this thing, they have cited what we did 2 years ago or a year ago as a precedent for this one that this is in line with the uranium setup, which it is not at all.

What we did in that bill was to coordinate the oil and gas-leasing act with the mining act. It has nothing whatever to do with this bill. It did not modify it in any direction at all. It did not put under the Bureau of Land Management or under the Forest Service or under the Fish and Wildlife any direction of the mining law.

Now, this thing is simply a further opening wedge. We discussed this very thing when we coordinated the oil and gas-leasing act with the mining act that it was not to be used as a precedent to get a further leasing foot in the door.

If there is not plenty of authority on the part of the Government now, and it was testified by Mr. Holbrook that they could do it, then we could easily amend the mining act to give them that authority, to go in and make this examination and go to court with it, which he can now do.

But let me say something to you, Mr. Chairman, that if every man, prospector, is put off in his claim in the United States today, that the Forest Service and the Bureau of Land Management do not think has any showing and, as a matter of fact, where you could not find any showing, that I hear a reasonable man would spend his money on, mining men are not reasonable men. They spend their money where there is no showing but they have a hunch that there is ore there if they dig deep enough or if they sell enough stock or something; that is the way they find the mines.

They do not find mines by going to a joker in a department that does not know anything about mining and could not make a living if you gave him the money to start off with because he does not have the determination himself and the fever that sends them into these places to find this ore.

Mr. Chairman, I want to cite you something that if you do a little reading, in Virginia City, Nev., where they produced \$1 billion during and after the Civil War, they did not know the valuable ore there. People went out broke and crying and by accident somebody assayed a blue mud that they had been throwing down the mountainside and they found out it was silver.

SENATOR ANDERSON. We can tell a thousand stories of it and this does not stop that situation.

SENATOR MALONE. Yes, it does; it sends these jokers in there that do not know anything about mining at all.

SENATOR ANDERSON. It does not send a soul in.

SENATOR MALONE. Here is a man testifying and then supported by a Senator, that the Forest Service went in and decided that there was no sign of a mine there, it was not reasonable. The Bureau of Land Management went in and turned it down. Both of these great organizations turned that miner down and still the Secretary of the Interior, on an assay, decided to go ahead with the patent.

Suppose you had had a Secretary of the Interior like Mr. Ickes or somebody, and he would have said that the Bureau of Land Manage-

ment says there is nothing, and they would have turned down the patent.

Senator ANDERSON. He does not do it on that basis.

Senator MALONE. But he could and this is an encouragement for it.

Senator ANDERSON. He could not do it under existing law and he could not do it under this law. The only way he could reject it is if they had no mine.

Senator MALONE. I hope we have some witnesses later on this, because this, in my opinion, is one step in the whole Government program coming up through the cellar, the doors and windows to keep any man from having any authority over Government land; that started in 1934 and is continuing.

Senator NEUBERGER. The Senator said that the witness did not know anything about mining and that I supported him.

Senator MALONE. I did not say he did not know anything about the mining. I said there was all this timber and it has been turned down by the Bureau of Land Management. I did not say you did not know anything about mining. I may get to that later.

Senator NEUBERGER. How much do these mining operators know about commercial lumbering?

Senator MALONE. The testimony yesterday had been that these men had never sold commercially this timber. I forget who testified that. Maybe you have different information but as I understood it, it was that when they located these claims they had no difficulty in logging off of the claims.

Who was that; does anyone remember? I can look it up.

Senator NEUBERGER. You mean that this timber on those claims in the Rogue River National Forest was not logged or harvested commercially?

Mr. HOLBROOK. I did not testify to that.

Senator MALONE. Somebody testified that they had not generally had trouble with logging the claims off.

Senator NEUBERGER. But I question the specific instance that I referred to. Are you saying that this timber on the Rogue River National Forest, these claims in which the validity of them was challenged by the Forest Service and the Bureau of Land Management, and later both these agencies were overruled by the Secretary on the basis of a private assay by a firm from Mobile, Ala., 3,000 miles from the Rogue River National Forest; are you saying that the timber on those claims was not logged?

Senator MALONE. No, because they were patented.

Senator NEUBERGER. Sure, they were patented, but you are talking about the fact that we did not know anything about mining.

I am asking you how much these mining companies knew about commercial logging and lumbering.

Senator MALONE. They probably did not know much.

Senator WATKINS. They knew of their profit.

Senator MALONE. What I am saying is if the Secretary of the Interior, on an assay, and I do not care where the assayer lives because he does not have to know anything about particular area, if he says there was profitable ore there and the Secretary of the Interior was in accord with that, he owned it.

But no one has objected as a witness yet to their owning the timber after it is patented.

Senator ANDERSON. I was going to say, why do we not settle this among ourselves?

Senator MALONE. I am trying to settle here that the patent was issued by the Secretary because he thought, on the basis of the assay, they deserved it and they logged it.

Senator ANDERSON. On that basis, under the law the mining patentee had the timber, and under S. 1713, if it becomes law, he will have it.

Senator MALONE. Nobody has objected to them having the timber when it is patented. They are only objecting to it at first.

As an example, it was patented because the Secretary of the Interior believed the assays and there was no doubt.

Senator ANDERSON. All I am saying is that exactly the same situation would prevail under this bill.

Senator BARRETT. Mr. Chairman, I want to ask the Senator and the witness a question, if they will permit me to do so.

If you will refer to page 12 of the bill, you will find there this sentence in the middle of that page:

The procedures with respect to notice of such a hearing and conduct thereof, and in respect to appeals, shall follow the then established general procedures and rules of practice of the Department of the Interior in respect to contests or protests affecting public lands of the United States.

Senator MALONE. What are these?

Senator BARRETT. That is the exact procedure that is in force now and has been in force for many years. It involved contests of homestead and mining claims. There is no change at all with reference to the situation in that respect.

Senator MALONE. There is this change, Senator, that it puts the shoe on the other foot.

Senator BARRETT. No; it does not. It is right there as it has always been and that is the thing I am trying to bring out, that there is not any change. The requirements on the mining claimant remain the same.

Senator MALONE. If we have Secretaries like Mr. Ickes, we would not have any petroleum drilling or mining claims or anything else, because they said we did not have these minerals, too.

Senator WATKINS. They can go to the courts. If they do not like the decision of the departments, they can go to the court and have them reverse it, and they do occasionally.

Senator BARRETT. But there is no change in the existing law.

Senator MALONE. The little prospector can go to court and have it reversed?

Senator BARRETT. Let us ask the witness.

Mr. CALLISON. That is the way I interpret it, Senator Barrett; no change in the procedures.

Senator ANDERSON. I was going to say that this man here so testified. Mr. Holbrook is a competent attorney. He has testified that it does not change the rights in any way on this. He has testified over and over again, and if there is a change, I think we ought to have some interpretation of the law to show what it is.

I would be glad to have him come back to the stand.

Senator MALONE. The last question I asked him was, "Did this not reverse the procedure?" and he said it did.

Senator WATKINS. Mr. Chairman, I would like to say this, that I happen to represent a State that has something to do with mining.

Senator MALONE. Not much now. They are just about out of it.

Senator WATKINS. I think they are doing more active work in mining in the State of Utah than any other State.

I hope the Senator will give us a chance to speak. He has made his speech.

I say we have a deep interest in this mining situation. I happen to have an interest in the small miner, the prospector who takes his chances, but I happen to know that the burden has always been on him to show that he complied with the law. If the Department attempted to put him off, then the Department had to indicate where he was violating the law.

I cannot see one legitimate interest of a miner with respect to these public lands that this bill will take away from him. It is the illegitimate use of the mining law to tie up forestlands and other lands where there is not any reasonable hope of developing a mine or where there is sand and gravel, which appears everywhere, and ties up the forest.

I think that is an abuse which every legitimate miner ought to see that we get rid of. If it is going to take away any of the legitimate interests, I certainly will be against this bill and I will be glad to strike out anything that indicates that.

But when they get across the stream and say that you cannot fish here, and he probably does not have much except the hope and is there primarily for the purpose of the timber rather than the minerals, that is another thing.

We see them here and there with a little hole and they go back once in a while and do a little work. They tie it up probably forever and hold up the development of the country. It is that type of fellow we are after, not the fellow trying desperately to get a mine. I will do everything to protect them.

As my colleague over in the House described them, they are week-end miners.

Senator ANDERSON. I was just wondering if we could have Mr. Holbrook state whether or not this bill, S. 1713, would change the procedure for a man who is trying to develop a mine, trying to develop the mineral resources of a tract of public land.

Senator MALONE. Have we lost the other witness?

Senator ANDERSON. No; but we want to hear from Mr. Holbrook on this.

What would be the situation? Would it not be precisely what it is under the existing law, Mr. Holbrook?

STATEMENT OF RAYMOND B. HOLBROOK—Resumed

Mr. HOLBROOK. I do not think there is anything in the bill, Senator, that will interfere with legitimate mining operations. I think there is a slight difference in the status of his surface rights, but I do not think this difference in any way affects mining or prospecting or allied operations.

In other words, it is something different than mining.

Now, Senator Malone, I did not intend to create the impression that the procedure set up under this bill reverses the situation. Senator Watkins has stated the rule of law correctly as I understand it, that the burden has always been on the mining claimant to establish that he has a valid mining claim.

Senator WATKINS. That shoe has always been on that foot, has it not?

Mr. HOLBROOK. That is right.

Senator ANDERSON. For 75 years?

Mr. HOLBROOK. Yes. It is an absolute necessity in the matter of administering the law. You cannot prove a negative; it is a well-established point of law. So the miner has to establish that he has a good mining claim.

Senator MALONE. Under this bill?

Mr. HOLBROOK. Under existing law and all of the procedures involved in a contest and a protest, the mining claimant has to establish that he has a mining claim.

Senator WATKINS. You are talking about the mining law that is now in effect?

Mr. HOLBROOK. That is right.

Senator WATKINS. And that was in before we passed the bill last year?

Mr. HOLBROOK. Yes.

Senator MALONE. Let me read a part of this if you are through?

Senator ANDERSON. All right.

Senator MALONE. I am not interrupting anybody?

Senator ANDERSON. No, sir.

Senator MALONE. The bill says here as follows:

Except to the extent required for the mining claimant's prospecting, mining, or processing operations and uses reasonably incident thereto. * * *

Under section 5, we find the following:

The Secretary of the Federal department which has the responsibility for administering surface resources of any lands belonging to the United States may file as to such lands in the Office of the Secretary of the Interior, or in such office as the Secretary of the Interior may designate, a request for publication of the notice to mining claimants, for determination of surface rights, which request shall contain a description of the lands covered thereby, showing the section or sections of the public lands surveys which embrace the lands covered by such requests, or if such lands are unsurveyed, either the section or sections which would probably embrace such lands when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument.

The last part of it is the guts of the thing. Then they go on:

The filing of such request for publication shall be accompanied by an affidavit or affidavits of a person or persons over 21 years of age setting forth that the affiant or affiants have examined the lands involved in a reasonable effort to ascertain whether any person or persons were in actual possession of or engaged in the working of such lands or any part thereof, and, if no person or persons were found to be in actual possession of or engaged in the working of said lands or any part thereof on the date of such examination, setting forth such facts, or, if any person or persons were so found to be in actual possession or engaged in such working on the date of such examination, setting forth the name and address of such person, unless affiant shall have been unable through reasonable inquiry to obtain information as to the name and address of any such person, in which event the affidavit shall set forth fully the nature and results of such inquiry.

The filing of such request for publication shall also be accompanied by the certificate of a title or abstract company, or of a title abstractor, or of an attorney, based upon such companies, abstractors, or attorney's examination of those instruments which are shown by the tract indexes in the county office of record as affecting the lands described in said request, setting for the name of any person disclosed by such instruments to have an interest in said lands under any unpatented mining claim heretofore located, together with the address of such person if such address is disclosed by such instruments of record.

"Tract indexes," as used herein, shall mean those indexes, if any, as to surveyed lands identifying instruments as affecting a particular legal subdivision of the public land surveys, and as to unsurveyed lands identifying instruments as affecting a particular probable legal subdivision according to a projected extension of the public land surveys.

Thereupon, the Secretary of the Interior, at the expense of the requesting department or agency—

In other words, that means one of his own agencies, does it not?

Mr. HOLBROOK. The expense could be borne by one of his own agencies or it could be borne by another Federal agency or department having the responsibility for administering the lands involved, depending upon which agency or department initiated the request.

Senator MALONE. That means the humble taxpayer ultimately, I guess.

Senator ANDERSON. This is all the Government.

Senator MALONE. Yes; after it gets the money from the little people out there.

Thereupon the Secretary of the Interior, at the expense of the requesting department or agency, shall cause notice to mining claimants—

these are the ones they dug out of the records—

to be published in a newspaper having general circulation in the county in which the lands involved are situate.

Such notice shall describe the lands covered by such request, as provided heretofore, and shall notify whomever it may concern that if any person claiming or asserting under, or by virtue of, any unpatented mining claim heretofore located, rights as to such lands or any part thereof, shall fail to file in the office where such requests for publication was filed (which office shall be specified in such notice)—

I presume that would be the Land Office in each State—

and within 150 days from the date of the first publication of such notice (which date shall be specified in such notice), a verified statement which shall set forth, as to such unpatented mining claim—

This refers to the locators of the claims.

Mr. HOLBROOK. To the mining claimant.

Senator ANDERSON. Doesn't this refer to the activities of the Department of the Interior?

Mr. HOLBROOK. The individuals he mentioned there are the people that hold the claims.

Senator MALONE. They are the locators of these claims. They are put on notice through publication, and they must then, within 150 days, do these things. And I understand there are nine publications. I think I read it some place in the bill.

Mr. HOLBROOK. That is right.

Senator MALONE. Once each week, is it?

Mr. HOLBROOK. Yes.

Senator MALONE. That would be 2 months. That would be 60 days after the 150. Within 90 days after the last publication then they shall file the following information with the Land Office. And I am talking now about the little mines or anybody that locates a claim:

(1) the date of location;

(2) the book and page of recordation of the notice or certificate of location—

I will ask you how many prospectors have any idea what they file it in, let alone the page and the book—

(3) the section or sections of the public land surveys which embrace such mining claims; or if such lands are unsurveyed, either the section or sections which

would probably embrace such mining claim when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument—

Now, Mr. Chairman, all of this is required of the locator. I will read that again so we don't miss it.

Senator WATKINS. From what are you reading?

Senator MALONE. Page 8 of your bill:

(3) the section or sections of the public land surveys which embrace such mining claims; or if such lands are unsurveyed, either the section or sections which would probably embrace such mining claim when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument—

The fellow who wrote that never lived out there, I will guarantee you that. I don't know who wrote it—

(4) whether such claimant is a locator or purchaser under such location; and

(5) the name and address of such claimant and names and addresses so far as known to the claimant of any other person or persons claiming an interest or interests in or under such unpatented mining claim—

Now all of us know that these claimants, whenever there is a little discovery in there, anywhere from 5 or 6 or 400 or 500 go in and file claims on top of each other hoping there will be a fraction.

So, Mr. Chairman, a prospector of the kind with which you and I are familiar is to notice this advertising in the paper, and, within 90 days after the last publication, he files this information: the date of the location; the book and page of the recordation of the notice or certificate of location; the section or sections of the public land surveys which embrace such mining claim, or, if unsurveyed, he must tie it in to a mineral monument; and then he must tell them whether such claimant is a locator or a purchaser and who he purchased it from, and trace that back; and the name and address of such claimants, names and addresses so far as known to the claimant or any other person or persons claiming an interest.

If you don't do any of these five things—

such failure shall be conclusively deemed (i) to constitute a waiver and relinquishment by such mining claimant of any right, title, or interest under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this act—

and those restrictions in section 4 are set out here. I will get back to those pretty soon.

But if he fails to do any one of these things he relinquishes all right and title.

Senator WATKINS. No.

Mr. HOLBROOK. No; not all right and title.

Senator MALONE. Let's go on a little bit. I am reading from your language. I presume you had a hand in writing this bill. Did you?

Mr. HOLBROOK. Yes, sir.

Senator MALONE. I knew that already. So I am glad to have it in the record [reading]:

such failure shall be conclusively deemed (i) to constitute a waiver and relinquishment by such mining claimant of any right, title, or interest under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this act as to hereafter located unpatented mining claims—

That means what it says, does it not?

Mr. HOLBROOK. Yes, sir.

Senator MALONE (continuing):

and (ii) to constitute a consent by such mining claimant that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 4 of this act as to hereafter located unpatented mining claims, and (iii) to preclude thereafter, prior to issuance of patent, any assertion by such mining claimant of any right or title to or interest in or under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this act as to hereafter located unpatented mining claims.

If such notice is published in a daily paper, it shall be published in the Wednesday issue for 9 consecutive weeks, or, if in a weekly paper, in nine consecutive issues, or, if in a semiweekly or triweekly paper, in the issue of the same day of each week for 9 consecutive weeks.

Within 15 days after the date of first publication of such notice, the department or agency requesting such publication (1) shall cause a copy of such notice to be personally delivered to or to be mailed by registered mail addressed to each person in possession or engaged in the working of the land whose name and address is shown by an affidavit filed as aforesaid, and to each person who may have filed as to any lands described in said notice, a request for notices, as provided in subsection (d) of this section 5, and shall cause a copy of such notice to be mailed by registered mail to each person whose name and address is set forth in the title or abstract company's or title abstractor's or attorney's certificate filed as aforesaid—

and it goes on with a description.

But, unless this is complied with, according to (i) it constitutes a waiver and relinquishment by such mining claimant of any right, title, or interest under such mining claim contrary to or in conflict with the limitations or restrictions set forth in this bill.

Now I want to make this point in going this far, that this is the first attempt to make every prospector, every man that has any intention of filing a mining claim, to comply with these restrictions. And it is the first time you have made him step up to the barrier and make a public statement to the Bureau of Land Management as to whether or not he has such a filing, and, if not, he is subject to the law in any case.

Mr. HOLBROOK. Did you want me to answer that?

Senator MALONE. I don't care whether you answer it or not. I am telling the truth. This is what the law says.

Go ahead and explain it.

Mr. HOLBROOK. It is not the first time.

Public Law 585, which I understood you to say that you supported last year—

Senator MALONE. And it had nothing whatever to do with this. What it did was to try to get the Oil and Gas Leasing Act coordinated with the Mining Act, and it had nothing to do with going out and talking about grazing.

Senator ANDERSON. Does not that law have exactly these same provisions in it?

Senator MALONE. But there was a reason for that.

Senator ANDERSON. There is a reason they are in this measure also.

Senator MALONE. In my opinion, there is no reason to get a prospector when he is not in conflict with the Oil and Gas Leasing Act. And the oil and gas leasing is not in conflict with the other act.

These were two mining acts we were talking about. We were not talking about fishing and hunting. And we were very emphatic, some of us in the committee, that this should not be considered precedent to go on to the next step, to talk about handicapping a prospector.

Mr. HOLBROOK. May I answer your question?

Senator ANDERSON. Yes, sir.

Mr. HOLBROOK. The provisions as to procedure and the action that must be taken by the mining claimant, the locator, is exactly the same, Senator, in this bill as in Public Law 585.

Senator MALONE. But you extend it; do you not?

Mr. HOLBROOK. In Public Law 585—

Senator MALONE. Will you answer my question? Do you extend it to fishing—

Senator WATKINS. Mr. Chairman, I insist that the witness be able to answer the question.

Senator MALONE. I insist that he answer me.

Senator WATKINS. That is what he is trying to do.

I do not want to take advantage, but the witness is trying to finish his answer.

Senator ANDERSON. He should answer. And then you may ask him if he extended it.

Senator WATKINS. He was right in the middle of his answer, and the Senator interrupted him. It is not fair.

Senator MALONE. I interrupted him because I wanted to find out if it applied to fishing and hunting and grazing and forestry. In other words, he is explaining that all this does is exactly what the other law does. But this extends it. That is right; is not not?

Mr. HOLBROOK. Senator, it is hard to give a yes or no answer without giving a wrong impression at times.

This does extend the law or there would be no occasion for the new bill.

Senator MALONE. That is right. Of course, it is obvious.

Senator ANDERSON. What did the old law do? What did Public Law 585 do with precisely this procedure?

Mr. HOLBROOK. My point was that the procedure, the thing that the mining claimant had to do, the routine he has to follow, is precisely the same under this law as under the other law. Under the other law there was a conflict between the mining rights and the oil and gas rights. If the mining claimant did not make an appearance and assert his rights to the Leasing Act minerals, he lost the Leasing Act minerals. And it went further in this respect: that loss was perpetual. It is written into the patent. It is a part of the right that he gets. In other words, it is subject, if he does not come in, always to someone else claiming the Leasing Act minerals.

Now under this law, if he does not come in and set up his claim to the surface rights in addition to those rights required for mining, then he will lose his rights and his claim will be in exactly the same status as the claim located after this bill is passed.

Senator MALONE. In other words, it extends to grazing and to fishing and to forestry.

Mr. HOLBROOK. What I had—

Senator MALONE. Answer that. That is what it does, does it not? Extend it to these other uses?

Mr. HOLBROOK. Senator, as was testified yesterday, there is grave doubt whether he has the right to use them for those purposes.

But they have been locked up so that no one could use them.

Senator MALONE. Then if you are locked out there is no doubt, is there? In other words, we have tried for 75 years or 77, whatever it is—the chairman said a while ago—to establish the fact, just like a

homestead, that when you put your stake up there and you comply with all of the laws, you have the same rights there as you have after a patent. But if you lapse in any way whatever, you lose it.

But when you have done your \$500 worth of work and you have your showing in accordance with the patent law and you patent it, then it belongs to you just the same. You do not have any additional rights, but you have permanent rights.

Mr. HOLBROOK. No; that is not as I understand it.

A mining claimant cannot dispose of timber prior to the patent; but he can after a patent.

There is just one point, Senator. I don't want to take——

Senator MALONE. Let's just spend a little time on that point.

If he has a showing that he can substantiate in court and before the Secretary of the Interior, and it is located, he has got a location, and he has done his assessment work and has abided by everything in good faith, is there any record of them stopping him from doing anything he wanted to do on the claim?

Mr. HOLBROOK. He cannot cut and sell timber, Senator. That is well established.

Senator ANDERSON. We have a thousand records of that.

Senator MALONE. That is all right. I am trying to establish that.

But he has a right on the claim. Is it established that he cannot use the grazing?

Mr. HOLBROOK. That is in litigation, Senator, right now.

Senator MALONE. If he had a couple of horses and a milk cow or something, and he was living out there——

Mr. HOLBROOK. Certainly. And he can still do it. There will be no change in that.

Senator ANDERSON. It doesn't change it a particle.

Senator MALONE. How do you know he can do it?

Mr. HOLBROOK. I was talking about granting somebody else the right to use grazing rights or using it as a grazing entry. If it is necessary to mining he can still do it.

I know of your deep interest in mining. And my point was this, that under the existing proceedings, but which I call a contest, or it may be called an averse or a protest, the mining claimant must come in and set up his rights. He must prove that he has a valid mining claim. And if he doesn't, he is out.

Senator MALONE. You are making him do it.

Mr. HOLBROOK. What?

Senator MALONE. You are making him do it under this bill.

Mr. HOLBROOK. He has to under the existing law.

Senator MALONE. No; he doesn't have to do it except in a special case when you take issue with him.

This thing is a blanket thing.

Mr. HOLBROOK. What I mean is if a contest is issued he has to come in like any——

Senator MALONE. All right. But that is the point you made yesterday, and I think it was a very good point. But you have to initiate the contest, do you not?

Mr. HOLBROOK. Who does?

Senator MALONE. Through the department.

Mr. HOLBROOK. They initiate the contest in this case.

Senator MALONE. No, no. Just wait.

Mr. HOLBROOK. And they initiate the contest in the other case.

Senator MALONE. This is another thing.

You do it by advertising, and you do it all at once under this bill.

Mr. HOLBROOK. Yes.

Senator MALONE. But in the other case you have to initiate the contest personally against a certain mining claim owner.

Mr. HOLBROOK. I am not sure it cannot be done by publication, as I told you yesterday.

Senator MALONE. It never has been done in a blanket way, has it?

Mr. HOLBROOK. My point is this, that the burden always has been and it still is on the mining claimant to come in and assert his rights.

Senator MALONE. But the difference is——

Now you have put your finger on it again: you did yesterday after about a half hour of questioning; now you have done it again after about the same length of time. This time you are doing it with a blanket setup by publication, making every prospector in the United States come in and do this thing instead of having it as it has been for 75 years or 77 years where, if you don't believe that there is a proper location, you do it and it is a personal matter. You serve the mining claimant with a notice from the department, and then he does have to come in.

What you are doing is that you just throw a handful of shot over the whole thing, and they all have to come up and prove that they are doing a good mining job and that they have a mineral showing that justifies their claim.

Mr. HOLBROOK. All those who have mining claims within the prescribed area given in the notice would have to come in.

Senator MALONE. That is right. But you could, in the notice, take in the whole situation at one time, or you could take a whole county or several counties, can you not?

Mr. HOLBROOK. The notice could include a large area.

Senator MALONE. It could include the whole State of Nevada.

Senator BARRETT. They have got to be from one county. Am I not correct?

Mr. HOLBROOK. It has to be published in each county.

Senator MALONE. It could take in the whole State of Nevada or Wyoming in one fell swoop.

Senator BARRETT. You break it down to 20 claims in 1 county, not more than 20 claims, and it has to be all in 1 county.

Mr. HOLBROOK. The hearing could not embrace more than 20 claims.

Senator BARRETT. The notice would have to be as against all the people in that one county. The notice has got to be published in the county where the land is situated.

Senator MALONE. You can bring them all at one time.

Mr. HOLBROOK. You might, I think, publish a notice, the same notice, in 2 or 3 counties.

Senator MALONE. Or 17 counties.

Mr. HOLBROOK. There would have to be notice in each county.

Senator MALONE. Or 17 counties. You could do it all at once, could you not?

Mr. HOLBROOK. Because of your great interest in——

Senator MALONE. Will you answer that?

You could do it in 17 counties at 1 time by having your protests filed and advertising it in a paper of general circulation in each county. You could do it all at once.

Mr. HOLBROOK. If you describe the land in each county, I would think that could be done.

Senator MALONE. Of course. And what you would do—you are not bound to describe all of the land. The petitioner would only have to describe what he knew about and what you know about. You can get the lists. But the reason for the notice is to catch the people that maybe you don't even know about.

Mr. HOLBROOK. I don't see that it makes a bit of difference, Senator, whether a larger area is described or a smaller area is described, as long as the notice is adequate and as long as the man does not have to come in and sit around for 2 weeks or 3 months or a year for a hearing. The idea is that a hearing should be such that he won't have to wait, and that he doesn't have a transcript that will break him if he wants to take an appeal.

That is exactly why this is limited to 20 claims.

Senator MALONE. All right, it is limited to 20 claims.

Senator WATKINS. You are talking about the act we now have in existence that passed last year.

Mr. HOLBROOK. I am talking about this act.

Senator WATKINS. This is the same as the other one.

Mr. HOLBROOK. I don't believe the 20-claim limitation was in, but that was limited to 640 acres because that is the size, as I recall, of each mineral lease. I have not looked at that for quite a while.

Senator MALONE. I want to make this further point:

That was limited to mining acts. You were merely modifying one to fit into the other, and vice versa. In other words, you were trying to make two mining acts coordinate.

If you are in a hurry you can leave.

Mr. HOLBROOK. I am not, Senator.

Senator MALONE. What I am trying to say to you now is this: You have again made the point you made yesterday in a little different way. This is a blanket advertisement under which you can bring in every prospector in the State of Nevada or the State of Utah and make him comply with the rules and regulations of this act. He must come to town. He must do what you say in these five things here. He must furnish:

- (1) the date of location;
- (2) the book and page of recordation of the notice or certificate of location;
- (3) the section or sections of the public-land surveys which embrace such mining claim; or, if such lands are unsurveyed, either the section or sections which would probably embrace such mining claim when the public-land surveys are extended to such lands, or a tie by courses and distances to an approved United States mineral monument;
- (4) whether such claimant is a locator or purchaser under such location; and
- (5) the name and address of such claimant and names and addresses so far as known to the claimant of any other person or persons claiming any interest or interests in or under such unpatented mining claim.

The point is this: You can bring them in under a blanket setup—put the shoe on the other foot, just as you said yesterday, whereas, under the present law, you must take them one at a time or maybe a small group. If there has been a protest here you can file something in your department, or one department into another, and bring them in under the regular law, which you say it doesn't change. But there is no such thing here that you can make them show what you are attempting to make them show here, and to make them do it on a certain date, all of them together.

Mr. HOLBROOK. I don't understand what you mean by putting the shoe on the other foot, Senator. As a lawyer, I don't understand you.

Senator MALONE. Now let's make it a little bit different.

I have had a little difficulty with lawyers over my short career, and most of them are trying to satisfy everybody, and sometimes they don't get into the meat of it.

The meat of it is that now you can file against any mining locator. That is true, is it not?

Mr. HOLBROOK. This is a more expeditious procedure.

Senator MALONE. Wait a minute.

I asked you: You can do that, can you not?

Mr. HOLBROOK. You can publish the notice and bring everybody in, require them to come in, who have claims within the described area.

Senator MALONE. Under this bill.

Mr. HOLBROOK. That is right, sir. And under Public Law 585.

Senator MALONE. 585, as I have explained to you, dealt with two mining acts. That is true, is it not? It dealt with two acts, one of them oil and gas, and, the other, minerals, and they conflicted.

Mr. HOLBROOK. Yes, sir.

Senator MALONE. But they were both mining.

Yes, oils and minerals; they are mining acts.

Mr. HOLBROOK. Yes, sir.

Senator MALONE. We did not bring in fishing; we did not bring in range; we did not bring in the forest service, did we?

Mr. HOLBROOK. That is correct.

Senator MALONE. But still you as a lawyer say that that is a precedent for this.

I don't think it is.

But nevertheless you are entitled to your opinion.

You say they are just alike; nothing is changed here. But under the old act you can't just publish a newspaper article and have them come in or forfeit their rights under certain conditions, can you?

Mr. HOLBROOK. Are you talking about Public Law 585?

Senator MALONE. No. I am talking about the 1872 act as amended up to that time. We didn't touch all this funny stuff at all. What we were doing was trying to get miners together, and we did, and I am in favor of that.

Mr. HOLBROOK. As I indicated——

Senator MALONE. Now you as a lawyer say that is a precedent for anything you want to do.

Mr. HOLBROOK. As I indicated yesterday, Senator, I am not familiar with the details of administrative procedure in one of these adversary actions except that I do know——

Senator MALONE. Under the old act you don't know anything about that.

Mr. HOLBROOK. Except I do know that the burden is on the mining claimant to come in and set up that he has a valid claim.

Senator MALONE. After you file charges against him in an inter-departmental charge.

Mr. HOLBROOK. Yes.

Senator MALONE. And you do that with one or a small group, and you notify the claimant, do you not? You don't just publish it in a newspaper.

Mr. HOLBROOK. I can't answer that because I don't know.

Senator MALONE. Why didn't you look it up? You are testifying on a very important point here, and you are a lawyer. You are working for the——

Who are you working for?

Mr. HOLBROOK. The United States Smelting, Refining & Mining Co.

Senator MALONE. That is what I thought.

Mr. HOLBROOK. We don't initiate any proceedings.

Senator MALONE. Of course you don't. And a company the size of the company that you just mentioned has no trouble at all in doing anything because they have the money to spend.

We are trying to talk about miners as a blanket proposition.

Senator ANDERSON. Would the Senator——

Senator MALONE. I wanted to ask him this one final question.

There is that difference. You say you don't know that there is that difference. But you must know that under the 1872 Mining Act what you do, you protest a claimant, a certain claimant. You don't just throw a handful of shot. You name them, don't you, in the Department of the Interior?

Mr. HOLBROOK. I don't believe that is in the mining law. I think it is, as Mr. Hoffman testified, a matter of rules and regulations in the Department.

Senator MALONE. I will tell you what it is. It is a matter of 75 years of precedent and court decisions. That is what it is.

Senator ANDERSON. Would the Senator permit me to suggest that we put the rules and regulations into the record at this point?

(The rules and regulations referred to are as follows:)

PART 221—RULES OF PRACTICE

SUBPART A—PROCEEDINGS BEFORE MANAGER

INITIATION BY CONTESTS OF PROTESTS

§ 221.1 *By whom contests or protests may be initiated.* (a) Contests may be initiated by any person seeking to acquire title to, or claiming an interest in, the land involved, against a party to any entry, filing, or other claim under laws of Congress relating to the public lands, because of priority of claim, or for any sufficient cause affecting the legality or validity of the claim, not shown by the records of the Bureau of Land Management.

(b) Any protest or application to contest filed by any other person shall be forthwith referred to the State Supervisor of the Bureau, who will promptly investigate the same and recommend appropriate action.

APPLICATION TO CONTEST

§ 221.2 *Form of application.* Any person desiring to institute a contest must file, in duplicate, with the manager, application in that behalf, together with statement under oath containing:

(a) Name and residence of each party, adversely interested, including the age of each heir of any deceased entryman.

(b) Description and character of the land involved.

(c) Reference, so far as known to the applicant, to any proceedings pending for the acquisition of title to or the use of such lands.

(d) Statement, in ordinary and concise language, of the facts constituting the grounds of contest.

(e) Statement of the law under which applicant intends to acquire title and facts showing that he is qualified to do so.

(f) That the proceeding is not collusive or speculative, but is instituted and will be diligently pursued in good faith.

(g) Application that affiant be allowed to prove said allegations and that the entry, filing, or other claim be canceled.

(h) Address to which papers shall be sent for service on such applicant.

§ 221.3 *Corroboration required.* The statements in the application must be corroborated by the affidavit of at least one witness having such personal knowledge of the facts in relation to the contested entry as, if proven, would render it subject to cancellation, and these facts must be set forth in his affidavit.

§ 221.4 *Allowance by manager.* The manager may allow any application to contest without reference thereof to the Director: but where notation on the records of the Bureau of Land Management is required, the manager must immediately forward a copy thereof to the Director, who will promptly cause proper notations to be made upon the records, and no patent or other evidence of title shall issue until and unless the case is closed in favor of the contestee.

CONSENT NOTICE

§ 221.5 *Form of notice.* The manager shall act promptly upon all applications to contest, and upon the allowance of any such application shall issue notice, directed to the persons adversely interested, containing:

(a) The names of the parties, description of the lands involved, and identification, by appropriate reference, of the proceeding against which the contest is directed.

(b) Notice that unless the adverse party appears and answers the allegation of said contest within 30 days after service of notice the allegations of the contest will be taken as confessed.

SERVICE OF NOTICE

§ 221.6 *How notice may be served.* Notice of contest may be served on the adverse party personally or by publication.

§ 221.7 *Personal service.* (a) Personal service of notice of contest may be made by any person over the age of 18 years, or by registered mail; when served by registered mail, proof thereof must be accompanied by post-office registry return receipt, showing personal delivery to the party to whom the same is directed; when service is made personally, proof thereof shall be by written acknowledgment of the person served, or by affidavit of the person serving the same, showing personal delivery to the party served; except when service is made by publication, copy of the affidavit of contest must be served with such notice.

(b) When the contest is against the heirs of a deceased entryman, the notice shall be served on each heir. If the heirs of the entryman are nonresident or unknown, notice may be served upon them by publication as hereinafter provided. If the person to be personally served is an infant under 14 years of age or a person who has been legally adjudged of unsound mind, service of notice shall be made by delivering a copy of the notice to the statutory guardian or committee of such infant or person of unsound mind, if there be one; if there be none, then by delivering a copy of the notice to the person having the infant or person of unsound mind in charge.

§ 221.8 *Abatement of contest.* Unless notice of contest is personally served within 30 days after issuance of such notice and proof thereof made not later than 30 days after such service, or if service by publication is ordered, unless publication is commenced within 20 days after such order and proof of service of notice by publication is made not later than 20 days after the fourth publication, as specified in § 221.10, the contest shall abate: *Provided*, That if the defendant makes answer without questioning the service or the proof of service of said notice, the contest will proceed without further requirement in those particulars.

SERVING NOTICE BY PUBLICATION

§ 221.9 *When notice may be given by publication.* (a) Notice of contest may be given by publication only when it appears, by affidavit by or on behalf of the contestant, filed within 30 days after the allowance of application to contest and within 10 days after its execution, that the adverse party can not be found, after due diligence and inquiry, made for the purpose of obtaining service of notice of contest within 15 days prior to the presentation of such affidavit, of the postmaster at the place of address of such adverse party appearing on the records of the land office and of the postmaster nearest the land in controversy and also of named persons residing in the vicinity of the land.

(b) Such affidavit must state the last address of the adverse party as ascertained by the person executing the same.

(c) The published notice of contest must give the names of the parties thereto, description of the land involved, identification by appropriate reference of the proceeding against which the contest is directed, the substance of the charges contained in the affidavit of contest, and a statement that upon failure to answer within 20 days after the completion of publication of such notice the allegations of said affidavit of contest will be taken as confessed.

(d) The affidavit of contest need not be published.

(e) There shall be published with the notice a statement of the dates of publication.

§ 221.10 *Publication and posting of notice.* (a) Service of notice by publication shall be made by publishing notice at least once a week for four successive weeks in some newspaper published in the county wherein the land in contest lies; and if no newspaper be printed in such county, then in a newspaper printed in the county nearest to such land.

(b) Copy of the notice as published, together with copy of the affidavit of contest, shall be sent by the contestant within 10 days after the first publication of such notice to registered mail directed to the party for service upon whom such publication is being made at the last address of such party as shown by the records of the land office and also at the address named in the affidavit for publication, and also at the post office nearest the land.

(c) Copy of the notice as published shall be posted in the office of the manager and also in a conspicuous place upon the land involved, such posting to be made within 10 days after the first publication of notice as provided in paragraph (a) of this section.

§ 221.11 *Proof of service.* (a) Proof of publication of notice shall be by copy of the notice as published, attached to and made a part of the affidavit of the publisher or foreman of the newspaper publishing the same, showing the publication thereof in accordance with §§ 221.9 and 221.10.

(b) Proof of posting shall be by affidavit of the person who posted notice on the land, and the certificate of the manager as to posting in the district land office.

(c) Proof of the mailing of notice shall be by affidavit of the person who mailed the notice, attached to the postmaster's receipt for the letter or (if delivered) the registry return receipt.

DEFECTIVE SERVICE OF NOTICE

§ 221.12 *Effect of defective service.* No contest proceeding shall abate because of any defect in the manner of service of notice in any case where copy of the notice or affidavit of contest is shown to have been received by the person to be served; but in such case the time to answer may be extended in the discretion of the manager.

ANSWER

§ 221.13 *When and how answer must be filed.* (a) Within 30 days after personal service of notice and affidavit of contest as above provided, or, if service is made by publication, within 20 days after the fourth publication, as prescribed by the rules in this part, the party served must file with the manager, answer, under oath, specifically meeting and responding to the allegations of the contest, together with proof of service of a copy thereof upon the contestant by delivery of such copy at the address designated in the application to contest, or personally in the manner provide for the personal service of notice of contest.

(b) Such answer shall contain or be accompanied by the address at which all notices or other papers shall be sent for service upon the party answering.

FAILURE TO ANSWER

§ 221.14 *Effect of failure to answer.* Upon failure to serve and file answer as herein provided, the allegations of the contest will be taken as confessed, and the manager will forthwith notify the parties by ordinary mail of the action taken.

DATE AND NOTICE OF TRIAL

§ 221.15 *Manager to fix time and place for trial.* Upon the filing of answer and proof of service thereof the manager will forthwith fix a time and place for taking testimony, and notify all parties thereof by registered mail not less than 20 days in advance of the date fixed.

PLACE OF SERVICE OF PAPERS

§ 221.16 *Proof of delivery of papers.* (a) Proof of delivery of papers required to be served upon the contestant at the place designated under § 221.2 (h) in the application to contest, and upon any adverse party at the place designated in the answer, or at such other place as may be designated in writing by the person to be served, shall be sufficient for all purposes; and where notice of contest has been given by registered mail, and the registry-return receipt shows the same to have been received by the adverse party, proof of delivery at the address at which such notice was so received shall, in the absence of other direction by such adverse party, be sufficient.

(b) Where a party has appeared and is represented by counsel, service of papers upon such counsel shall be sufficient.

CONTINUANCE

§ 221.17 *When hearing may be postponed.* Hearing may be postponed because of absence of a material witness when the party applying for continuance makes affidavit, and it appears to the satisfaction of the officer presiding at such hearing, that:

(a) The matter to which such witness would testify, if present, is material.

(b) That proper diligence has been exercised to procure his attendance, and that his absence is without procurement or consent of the party on whose behalf continuance is sought.

(c) That affiant believes the attendance of said witness can be had at the time to which continuance is sought.

(d) That the continuance is not sought for mere purposes of delay.

§ 221.18 *When more than one continuance may be allowed.* One continuance only shall be allowed to either party on account of absence of witnesses, unless the party applying for further continuance shall, at the same time, apply for order to take the testimony of the alleged absent witnesses by deposition.

§ 221.19 *When continuance will be denied; continuance on behalf of United States.* (a) No continuance shall be granted if the opposite party shall admit that the witness on account of whose absence continuance is desired would, if present, testify as stated in the application for continuance.

(b) Continuances will be granted on behalf of the United States when the public interest requires the same, without affidavit on the part of the Government.

DEPOSITIONS AND INTERROGATORIES

§ 221.20 *When testimony may be taken by deposition.* Testimony may be taken by deposition when it appears by affidavit that:

(a) The witness resides more than 50 miles, by the usual traveled route, from the place of trial.

(b) The witness resides without, or is about to leave, the State or Territory, or is absent therefrom.

(c) From any cause it is apprehended that the witness may be unable to, or will refuse to, attend the hearing, in which case the deposition will be used only in the event personal attendance of the witness cannot be obtained.

§ 221.21 *Affidavit required showing grounds for deposition; proposed interrogatories.* The party desiring to take deposition must serve upon the adverse party and file with the manager an affidavit setting forth the name and address of the witness and one or more of the grounds set forth in § 221.20 for taking such deposition, and that the testimony sought is material; which affidavit must be accompanied by proposed interrogatories to be propounded to the witness.

§ 221.22 *Cross interrogatories.* The adverse party will, within 10 days after service of affidavit and interrogatories, as provided in the preceding section, serve and file cross-interrogatories.

§ 221.23 *Commission to take deposition.* (a) After the expiration of 10 days from the service of affidavit for the taking of deposition and direct interrogatories, a commission to take the deposition shall be issued by the manager directed to any officer authorized to administer oaths within the county where such deposition is to be taken, which commission shall be accompanied by a copy of all interrogatories filed.

(b) Ten days' notice of the time and place of taking such deposition shall be given by the party in whose behalf such deposition is to be taken to the adverse party.

§ 221.24 *Completion of deposition.* The officer before whom such deposition is taken shall cause each interrogatory to be written out and the answer thereto inserted immediately thereafter, and said deposition, when completed, shall be read over to the witness and by him subscribed and sworn to in the usual manner before the witness is discharged, and said officer will thereupon attach his certificate to said deposition, stating that the same was subscribed and sworn to at the time and place therein mentioned.

§ 221.25 *Deposition to be returned to manager.* The deposition, when completed and certified as aforesaid, together with the commission and interrogatories, must be enclosed in a sealed package, endorsed with the title of the proceeding in which the same is taken, and returned by mail or express to the manager, who will endorse thereon the date of reception thereof, and the time of opening said deposition.

§ 221.26 *When certificate of official character is required.* If the officer designated to take the deposition has no official seal, certificate of his official character under seal must accompany the return of the deposition.

§ 221.27 *Deposition by filing stipulation.* Deposition may, by stipulation filed with the manager be taken before any officer authorized to administer oaths, and either by oral examination or upon written interrogatories.

§ 221.28 *Testimony taken by order of manager.* Testimony may, by order of the manager and after such notice as he may direct, be taken before a United States Commissioner or other officer authorized to administer oaths, at a time and place to be designated in a notice of such taking of testimony. The officer before whom such testimony is taken will, at the completion of the taking thereof, cause the same to be certified to, sealed, and transmitted to the manager in the like manner as is provided with reference to depositions.

§ 221.29 *No charge for examining deposition.* No charge will be made by the manager for examining testimony taken by deposition.

§ 221.30 *Fees for taking testimony.* Officers designated to take testimony will be allowed to charge such fees as are chargeable for similar services in the local courts, the same to be taxed in the same manner as costs are taxed by managers.

§ 221.31 *Substitution of officer to take testimony.* When the officer designated to take deposition cannot act at the time fixed for taking the same, such deposition may be taken at the same time and place before any other qualified officer designated for that purpose by the officer named in the commission or by agreement of the parties.

§ 221.32 *Time for issuing order to take testimony.* No order for the taking of testimony shall be issued until after the expiration of time allowed for the filing of answer.

TRIALS

§ 221.33 *Exclusion of witnesses from the trial.* The manager and other officers taking testimony may exclude from the trial all witnesses except the one testifying and the parties to the proceeding.

§ 221.34 *Examination of witnesses by manager.* The manager will be careful to reach, if possible, the exact condition and status of the land involved in any contest, and will ascertain all the facts having any bearing upon the rights of parties in interest; to this end said officer should, whenever necessary, personally interrogate and direct the examination of a witness.

§ 221.36 *Facts to be ascertained under homestead and other laws.* Under the homestead and other laws, the conditions affecting the inception of the alleged right, as well as the subsequent acts of the respective claimants, must be fully and specifically examined. The manager will particularly ascertain the nature, extent, and value of alleged improvements; by whom made, and when; the true date of the settlement of persons claiming; the steps taken to mark and secure the claim; and the exact status of the land at that date as shown upon the records of this office.

§ 221.37 *Cross-examination of witnesses.* Due opportunity will be allowed opposing claimants to cross-examine witnesses.

§ 221.38 *Objections to evidence.* Objections to evidence will be duly noted, but not ruled upon, by the manager, and such objections will be considered by the Director. Officers before whom testimony is taken will summarily stop examination which is obviously irrelevant.

§ 221.39 *Testimony to be reduced to writing.* (a) At the time set for hearing, or at any time to which the trial may be continued, the testimony of all the witnesses present shall be taken and reduced to writing.

(b) When testimony is taken in shorthand the stenographic notes must be transcribed, and the transcription subscribed by the witness and attested by the officer before whom the testimony was taken: *Provided, however*, That when the parties shall, by stipulation, filed with the record, so agree, or when the defendant has failed to appear, or fails to participate in the trial, and the contestant shall in writing so request, such subscription may be dispensed with.

(c) The transcript of testimony shall, in all cases, be accompanied by certificate of the officer or officers before whom the same was taken, showing that each witness was duly sworn before testifying, and, by affidavit of the stenographer who took the testimony, that the transcription thereof is correct.

§ 221.40. *Action on demurrers.* (a) If a defendant demurs to the sufficiency of the evidence, the manager will forthwith rule thereon. If such demurrer is overruled, and the defendant elects to introduce no evidence, no further opportunity will be afforded him to submit proofs.

(b) When testimony is taken, before an officer other than the manager, demurrer to the evidence will be received and noted, but no ruling made thereon, and the taking of evidence on behalf of the defendant will be proceeded with; the manager will rule upon such demurrer when the record is submitted for his consideration.

(c) If said demurrer is sustained, the manager will not be required to examine the defendant's testimony. If, however, the demurrer be overruled, all the evidence will be considered and decision rendered thereon.

(d) Upon the completion of the evidence in a contest proceeding, the manager will render a report and opinion thereon making full and specific reference to the posting and annotations upon the records.

§ 221.41 *Decision of manager; right to move for new trial, or appeal.* The manager will, in writing, notify the parties to any proceeding of the conclusion therein, and that 15 days will be allowed from the receipt of such notice to move for new trial upon the ground of newly discovered evidence, and that if no motion for new trial is made, 30 days will be allowed from the receipt of such notice within which to appeal to the Director.

NEW TRIAL

§ 221.42 *Ground for new trial.* (a) The decision of the manager will be vacated and new trial granted only upon the ground of newly discovered evidence, in accordance with the practice applicable to new trials in courts of justice: *Provided, however*, That no such application shall be granted except upon showing that the substantial rights of the applicant have been injuriously affected.

(b) No appeal will be allowed from an order granting new trial, but the manager will proceed at the earliest practicable time to retry the case, and will, so far as possible, use the testimony therefore taken without reexamination of same witnesses, confining the taking of testimony to the newly discovered evidence.

§ 221.43 *Notice of motion for new trial; time for answer.* Notice of motion for new trial, setting forth the grounds thereof, and accompanied by copies of all papers not already on file to be used in support of such motion, shall be served upon the adverse party, and, together with proof of service, filed with the manager not more than 15 days after notice of decision; the adverse party shall, within 10 days after such notice, serve and file affidavits or other papers to be used by him in opposition to such motion.

§ 221.44. *Consideration of motions for new trial.* Motions for new trial will not be considered or decided in the first instance by the Director or the Secretary of the Interior, or otherwise than on review of the decision thereof by the manager.

§ 221.45 *Manager to forward all papers to Director.* (a) If motion for new trial is not made or if made and not allowed, the manager will, at the expiration of the time for appeal, promptly forward the same with the testimony and all papers in the case, to the Director, with letter of transmittal, describing the case by its title, nature of the contest, and the land involved.

(b) The manager will not, after forwarding of decision, as provided in paragraph (a) of this section, take further action in the case unless so instructed by the Director.

FINAL PROOF, PENDING CONTEST

§ 221.46 *Submission of final proof excused pending disposition of proceedings.* (a) The pendency of a contest will excuse the submission of final proof on the entry involved until a reasonable time after the disposition of the proceedings, but final or commutation proof may be submitted at any stage thereof. The payment of the final commissions or purchase money, as the case may be, should be deferred until the case is closed, when, if the contest is dismissed and the proof is found satisfactory, claimant will be allowed 30 days from notice within which to pay all sums due and furnish a nonalienation affidavit, upon receipt of which the proper form of final certificate will issue.

(b) In such cases the fee for reducing the proof testimony to writing must be paid at the time the proof is submitted.

(c) The final proof should be retained in the district land office until the record in the contest case is forwarded to the Bureau of Land Management, but will not be considered in determining the merits of the contest, though it may be used for the purpose of cross-examination during the trial.

(d) In such cases the party making the proof will at the time of submitting same be required to pay the fees for reducing the testimony to writing.

APPEALS TO DIRECTOR

§ 221.47 *Service and filing of notice required.* No appeal from the action or decision of the manager will be considered unless notice thereof is served and filed in the land office in the manner and within the time specified in § 221.48.

§ 221.48 *Notice of appeal: filing of briefs.* Notice of appeal from the decision of the manager shall be served upon the adverse party and filed with the manager within 30 days after receipt of notice of the decision. Within 20 days after service of notice of appeal, the appellant may file a brief, a copy of which must be served upon the appellee. Within 20 days after such service the appellee may file his brief, a copy of which must be served upon the appellant. Briefs must be served upon the opposing party within the same period of time allowed for their filing with the manager. When a motion for a new trial is made and denied, notice of an appeal shall be served within 15 days after the receipt of notice of the denial of the motion.

§ 221.49 *Effect of failure to answer or appear.* No person who has failed to answer the contest affidavit, or, having answered, has failed to appear at the hearing, shall be allowed an appeal from the final action or decision of the manager.

§ 221.50 *Notice of appeal to be in writing; failure to serve and file notice closes case.* (a) Such notice of appeal must be in writing, and set forth in clear, concise language the grounds of the appeal, in the form of specifications of error, which shall be separately stated and numbered; where error is based upon insufficiency of the evidence to justify the decision, in the assignment thereof the particulars wherein it is deemed insufficient must be specifically set forth in the notice. All grounds of error not assigned or noticed and argued in the brief will be considered as waived.

(b) Upon failure to serve and file notice of appeal as provided in §§ 221.47 to 221.49 the case will be closed.

§ 221.51 *Effect of failure to move for new trial or appeal.* (a) When any party fails to move for a new trial or to appeal from the decision of the manager within the time specified, such decision shall, as to such party, be final and will not be disturbed except in case of fraud or gross irregularity.

(b) No case will be remanded for any defect which does not materially affect the aggrieved party.

§ 221.52 *Manager to keep all documents on file.* All documents received by the manager must be kept on file and the date of filing noted thereon; no papers will, under any circumstances, be removed from the files or from the custody of the manager, but access to the same, under proper regulations, and so as not to interfere with transaction of public business, will be permitted to the parties or their attorneys.

COSTS AND APPORTIONMENT THEREOF

§ 221.53 *Costs to preference-right and other claimants.* A contestant claiming preference right of entry under the second section of the act of May 14, 1880 (21 Stat. 141; 43 U. S. C. 185), must pay the costs of contest. In other cases each party must pay the cost of taking the direct examination of his own witnesses and the cross-examination on his behalf of other witnesses; the cost of noting

motions, objections, and exceptions must be paid by the party on whose behalf the same are made.

§ 221.54 *Excessive costs.* Accumulation of excessive costs will not be permitted. When the officer before whom testimony is being taken shall rule that a course of examination is irrelevant, the same will not proceed except at the sole cost of the party insisting thereon and upon his depositing the amount reasonably sufficient to pay therefor.

§ 221.55 *Cost to settlers.* Where a party contesting a claim shall by virtue of actual settlement and improvement establish his right of entry of the land in contest under the homestead, or desert-land laws by virtue of settlement and improvement without reference to the act of May 14, 1880 (21 Stat. 141; 43 U. S. C. 185) the costs of contest will be imposed as prescribed in the second sentence of § 221.53.

CROSS REFERENCES: See the following parts in this chapter: For homesteads, Alaska, Parts 65, 66; for homesteads, generally, Parts 166-170; for soldiers' and sailors' homestead rights, Part 181; for desert-land entries, Part 232.

§ 221.56 *Cost chargeable by managers.* The only cost of contest chargeable by managers are the legal fees for reducing testimony to writing. No other contest fees or costs will be allowed to or charged by those officers, directly or indirectly.

§ 221.57 *Security for costs.* Managers may at any time require either party to give security for costs, including expense of taking and transcribing testimony.

§ 221.58 *Return of excess deposit.* Upon the filing of the transcript of the testimony in the land office, any excess in the sum deposited as security for costs of transcribing testimony will be returned to the parties depositing the same.

§ 221.59 *Cost to Government.* When hearings are ordered on behalf of the Government all costs incurred on its behalf will be paid from the proper appropriation, and when, upon the discovery of reason for suspension in the usual course of examination of entries and contest, hearings are ordered between contending parties, the costs will be paid as required by § 221.53.

§ 221.60 *Collection of costs.* The costs provided for by the preceding rules will be collected by the manager when the parties are brought before him in obedience to the order for hearing.

NOTICES

§ 221.61 *Preparation and service of notices.* All notices and other papers not required to be served by the manager must be prepared and served by the respective parties.

§ 221.62 *Manager to make provision for notices not specifically provided for.* The manager will require proper provision to be made for such notices not specifically provided for in the rules in this part as may become necessary in the usual progress of the case to final decision.

APPEAL FROM DECISION REJECTING APPLICATION TO ENTER PUBLIC LANDS

§ 221.63 *Action by manager to facilitate appeals.* To facilitate appeals from his action relative to applications to file, enter, or locate upon the public lands, the manager will:

(a) Endorse upon every rejected application the date of presentation and reasons for rejection.

(b) Promptly advise the party in interest of the action and of his right of appeal.

(c) Note upon his records a memorandum of the transaction.

§ 221.64 *When notice of appeal must be filed; form of notice.* The party aggrieved will be allowed 30 days from receipt of notice in which to file notice of appeal in the land office. The notice of appeal, when filed, will be forwarded to the Bureau of Land Management with full report upon the case, which should recite all the facts and proceedings had and must embrace the following particulars:

(a) The original application, with reasons for the rejection thereof.

(b) Description of the tract involved and statement of its status, as shown by the records of the land office.

(c) Reference to all entries, filings, annotations, memorandum, and correspondence shown by the record relating to said tract and to the proceedings had.

Senator ANDERSON. The department does do it by publication, and has done it by publication. I myself have participated in that.

Senator MALONE. That is all right.

What I am trying to say is you name the claimant. It is not a blanket proposition.

This time what you are doing is stepping out and you can do it for the whole State at one time. You are cooking up the objections yourself within your own department. That is what I am objecting to.

Mr. HOLBROOK. Senator, may I make one statement?

Because of your great interest in mining as a Western man, I would like the record perfectly clear on this point.

I think there is a great advantage to the mining industry in this respect about such a proceeding, and Senator Barrett mentioned it yesterday. Under the existing proceedings, in a contest when the mining claimant comes in, he wins or loses in whole; there is no half-way point.

Senator MALONE. That is what he should do.

Mr. HOLBROOK. If he loses he has nothing.

Under this new proceeding it merely raises the issues of these surface rights that you have been talking about. It reserves to him all of the surface rights that are required in his mining operation.

Senator MALONE. That he knows of at the present time.

Mr. HOLBROOK. Well, the language of the statute is that he has the right to use it for prospecting, mining, processing, and incidental uses. We thought that was broad enough.

Senator MALONE. Yesterday it was very well established that no prospector knows how much timber or anything else he is going to need unless he hits something. He always thinks he is going to and keeps spending his money.

So if you log that off, the Senator from Colorado suggested an amendment that you furnish the timber after you had taken it away from him if he eventually needs it. I think that might run into some complications, too. But it is a fairly good suggestion.

Let us go on here with this act.

Senator ANDERSON. Could I ask a question about this particular point?

Senator MALONE. Yes.

Senator ANDERSON. I recognize that Senator Malone is just as much interested in protecting the rights of the miners as anybody I have ever seen in my life. I am trying not to get in a controversy with him about this bill. But I want to deal with this question of these sections he has been quoting and reading. They only deal with surface rights, do they not?

Mr. HOLBROOK. That is the only issue involved in the proceeding. That is all that it is intended to do. It says "Subject to the limitations and restrictions of section 4." And those are the rights of the Government and its permittees to use the surface for purposes which will not interfere with mining.

Senator ANDERSON. So they only deal with surface rights which are not necessary for mining?

Mr. HOLBROOK. That is right.

Senator MALONE. Not as I read the next paragraph.

Senator ANDERSON. Yes, but the fact is as Mr. Holbrook and I have stated with reference to this section, it deals only with surface rights

not needed for mining. It doesn't touch a claimant's minerals. He does not have to do a thing about answering the descriptions——

Senator WATKINS. Unless he wants to raise it himself. If he wants to come in and raise it himself I think he would be very unwise, as Mr. Holbrook pointed out yesterday. He said he would advise his client not to raise the question of mineral rights. There is no jurisdiction to decide those unless he raises them.

Senator MALONE. There are many people I know you are not even going to reach with these newspaper advertisements. And if you do they haven't got the money to come in and do this.

Senator ANDERSON. Yes, but it only deals with surface rights and with respect to them is restricted to those not necessary for mining.

Senator MALONE. I understand that. Let me go on. If he doesn't do this his failure shall be deemed——

(ii) to constitute a consent by such mining claimant that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 4 of this act as to hereafter located unpatented mining claims, and

(iii) to preclude thereafter, prior to issuance of patent, any assertion by such mining claimant of any right or title to or interest in or under such mining claim, contrary to or in conflict with the limitations or restrictions specified in section 4 of this act as to hereafter located unpatented mining claims.

In other words, you probably won't find some of them at all, and it will go by default. If you do, they will come in and tell you a pitiful story that they are working here and doing this thing, and they don't know how much timber they are going to need. They don't know how much of anything else that is on the claim they are going to need.

So what can they say to you with your formal hearing where they have to establish that they are going to need, we will say, 100,000 board-feet for timbering their mine when they are just getting a good start and they don't have a commercial claim?

Mr. HOLBROOK. There would not be any issue, Senator, as to how much timber would be required at all.

The only issue that would be involved was whether or not he is entitled to those surface rights, and that would depend upon whether he had a valid mining claim.

Senator MALONE. If he has a valid mining claim then he is entitled to all the surface rights. Is that it?

Mr. HOLBROOK. If he has a valid mining claim and he can establish it, that ends it.

Senator ANDERSON. He gets them all.

Senator MALONE. In other words, you cannot go on there and sell any of the timber or grazing.

Mr. HOLBROOK. That is right. You cannot take any right——

Senator MALONE. You just told me a while ago that the prospector did not have these rights until he has patented it. I did not question it because you are a lawyer. You are familiar with it.

Mr. HOLBROOK. What I had in mind then was that, as to claims located in the future under this law or as to claims located in the past, if he doesn't come in and set up his rights.

If he comes in and sets up his rights and establishes that he has a bona fide mining claim I don't think that we could pass any law that would take those away from him because he has a vested right in a claim at the time this law is passed.

Senator MALONE. But on a future location he would not secure these rights under this act.

Mr. HOLBROOK. Under this act all future locations will be subject to the limitations and restrictions specified in section 4.

Senator MALONE. Just what I have been reading.

Mr. HOLBROOK. I think you did read part of section 4.

Senator MALONE. And unless he makes this showing, unless he comes in at his own expense and makes this showing, he relinquishes his right.

Mr. HOLBROOK. That is right.

Senator ANDERSON. But only as to the surface rights not necessary for his mining. They can't touch his minerals.

Senator MALONE. I am talking about a man having to come in and defend himself in the things that he may have to do on this claim.

What you have done here in this bill is to make every one of these people get away from this thing and make them come in and file so that the Government would know exactly who they are and where they are.

Senator ANDERSON. Not if they don't want anything beyond the surface rights that are necessary for mining. If they want to run a saloon or a dance hall, then they do have to come in.

Senator MALONE. I don't know but what maybe you might want an eating house on it if you had to feed the help.

Senator ANDERSON. That would be essential to mining, required for mining. That would not be in question either.

Senator WATKINS. Not a commercial enterprise.

Senator MALONE. Drinking is legitimate. This is an academic thing. Some people like it after a day's work. And maybe that is necessary if there aren't any within 50 miles.

Senator ANDERSON. I think saloons have uniformly run into difficulty. I would sort of hope they would continue to. But a man can do his own buying and bring it home.

Senator MALONE. I am talking about Federal law. There is no Federal law against it, is there?

Senator ANDERSON. There is no Federal law against it, but that is not regarded as essential to mining.

Senator MALONE. I am against it. I am not so sure. Most of the mining has been done that way in most of the West. I am not saying it is necessary. I have worked in the mines and I am not saying it is necessary to have a drink. But if we are passing a prohibition law, let's get into that.

Senator ANDERSON. You aren't.

We are talking about abuses that have taken and are taking place I read you a court decision yesterday. These abuses have been going on under the 1872 law for 75 years.

Senator MALONE. All right.

I don't know of anything that has been prohibited. If it is already prohibited, what do you need the act for?

Senator ANDERSON. We tried to explain yesterday that here sat some timber in a State that the Government cannot sell because people have come in and filed fictitious mining claims for the sole purpose of holding them up.

Senator MALONE. Then we come back finally to the timber.

I have asked the question 50 times if you object to confining it to forest reserves.

Mr. HOLBROOK. Senator Malone—

Senator MALONE. What you are after is to get beyond the forest reserves, using that as bait.

Mr. HOLBROOK. As I stated yesterday, I think if it is a good rule on the forests it is a good rule on all public lands.

Senator MALONE. But it cannot be for the same purpose. You all come back and say that they are prohibited from coming in and selling the timber. That is exactly the reason we passed the other law, was because it prohibited uranium claimants from going on oil and gas leases. They couldn't proceed to a patent, and, therefore, they weren't legal.

We cured that; did we not?

Now we want to cure any problem that proves to be a problem on the public domain without killing the fellow. Just cure him; don't kill him.

Mr. HOLBROOK. There are problems outside of the national forests.

Senator MALONE. You don't have the problem of forests outside the national forests.

Mr. HOLBROOK. There are some other forests.

Senator WATKINS. You have fishing streams and the Taylor Grazing Act.

Senator MALONE. That is exactly what you are trying to do; get them all in.

Senator ANDERSON. The C. and C. lands are not in a national forest. But they are forest lands. Those are the Oregon and California lands we have been discussing.

Senator MALONE. Let us make a stipulation in it that it be classified as forest lands. We have got 4 or 5 million acres in national forests. If there are 200 acres that I cannot run or jump over I will eat the tree.

Senator ANDERSON. That is why this law would have little significance in your State.

Senator MALONE. This law would have application in my State.

Senator ANDERSON. That is right; but there probably is no State in the Union where the surface rights are of as little significance in connection with mining claims as is the case with Nevada.

Senator MALONE. This law says specifically, or it implies that you can send the Bureau of Land Management in there and harass the miner and do anything they need to do to rent this land and see that the people get the grazing. That is what it says.

Senator ANDERSON. I wish you would find the language in the bill.

Senator MALONE. It implies that here.

Senator ANDERSON. It doesn't mean to, Senator. I am sure of that.

Senator MALONE. Can we except the grazing, except everything except that which can classify as timber?

Senator WATKINS. I would like to answer that question.

I think the mining law should be that mining claims should be confined to mining purposes. And if it is for the grazing of his own animals that he has on the place, and that he needs in connection with his mining, all well and dandy. But if he is going to take a mining claim—and a placer claim runs into hundreds of acres—if he is going to take all of that and use it under the guise of mining

to get the right to graze, then I think that ought to be stopped in the future.

Senator MALONE. I am really familiar with this in my State, and it is not a contest. None of the stockmen are having trouble.

Senator WATKINS. Then they won't have any trouble if they are not violating the law. It is only the violators that have trouble.

Senator ANDERSON. Can we move on?

Did you have one more statement?

Mr. HOLBROOK. I would like to make this one observation, Senator Malone:

You have referred to the possibility of blanket proceedings. I think it is an unfair assumption to assume that there will be blanket proceedings.

There is never any occasion to institute a proceeding or a lawsuit unless there are some issues.

May I finish my statement, please?

Senator MALONE. Yes, sir. I did not interrupt you, I don't think.

Mr. HOLBROOK. Unless there is some conflict between the surface uses and the mining claims, I think there is no occasion to assume that there will ever be any proceeding. There is just no reason for doing it.

I don't think Government officials, any more than individuals, are just starting proceedings because of the entertainment in doing it. Where there is a contest, there are some surface rights involved, my thoughts is that the mining claimant is much better off not to be putting all of his chips on the table, but to have some chips left if he loses.

You pointed out very effectively, particularly with respect to mining locations, the great problems in getting discoveries. And that is how mining claimants lose their claims.

Senator MALONE. Are you familiar with the court decisions on determining discoveries? It seems to me the courts are rather lenient, and have been in a succession of decisions for 75 years. I do not know that you would run very many people off their claims because they did not have what you would consider something you would invest your money in. That doesn't happen. It just doesn't happen.

Mr. HOLBROOK. Senator, the day before I left I considered some patent applications that involved the sufficiency of some discoveries. They had been contested by the Government. We discussed it fully with our engineers and our geologists, and we concluded that it would probably be best for us not to make an issue of it. We were not sure that we would win.

Senator MALONE. I think maybe you had good judgment. But I have had those decisions to make, to, as a mineral surveyor, and I have made them. Maybe I would go out and turn down the job because I did not think they had the required amount of work done. Because the patent surveyor has to make the affidavit, as you know.

But if the patent surveyor makes the affidavit, generally it may not even be a commercial operation at the time.

You know we have prospects now in Utah and Nevada—and I take in Utah because I am somewhat familiar with it—where they were in the mining business in lead and zinc until we got this idea of free trade and furnishing Europe with the money to buy the stuff to send in here. So they turned it into country rock.

But I would like for some of you smart people to go out there and try to keep them from patenting some of these claims that they mined profitably up until this law passed.

You can't do it. And I know you know that.

But it is not profitable now, and they are shutting down. They are going broke. One of the finest Utah men I know they just broke. He was in the manganese business out there in Nevada and Utah, the lead and zinc business. He is on his coattails.

Mr. HOLBROOK. I am in complete agreement with you that the commercial—

Senator MALONE. It doesn't have anything to do with commercial.

Mr. HOLBROOK. Has nothing to do with discovery.

Senator MALONE. It is the mineral there and the amount of work done, and the general overall judgment of the mineral surveyor and the Secretary of the Interior when it finally comes down to it, isn't it?

Mr. HOLBROOK. All those facts are considered.

Senator MALONE. Of course, we all know what they are. I have been in it for 30 years.

What you are doing with these things here is you are simply bringing in what I predicted. I think probably the hearings will show it—when we were holding the hearings and I was chairman of the committee 2 years ago and we passed the first act—that they will try to use this as a precedent to go further into other situations to control the rights of the man that is trying to mine these claims when, as a matter of fact, all we did—and I have heard it used as a precedent here 50 times in the last day or two—all we did was to try to coordinate two mining acts. We did not say to these prospectors in there that they have to come in under the Bureau of Land Management and the Forest Service and all of the rest of it. It was a very simple matter to coordinate.

And we don't want conflicts. There may be serious conflicts where your uranium claim or some other mineral claim would conflict where you wanted to drill a well. But we ended that by the first locator. In a conflict the first locator prevails.

So there is no such thing. This is not a precedent for this cockeyed thing that you have here now. But you are using it for a precedent.

Mr. HOLBROOK. I have referred to it as a similar procedure.

I am inclined to think, Senator, that in all cases if natural resources are locked up, which are not necessary in a mining operation, that those resources should be made available.

Senator MALONE. What resources are locked up? I will just let you explain that one more time.

Mr. HOLBROOK. Well, the most classic example of resources being locked up is the many cases that have been referred to where access to timber is denied.

Senator MALONE. It is a simple thing.

Mr. HOLBROOK. Senator, I am fully aware that you are trying to limit this bill to the national forests.

Senator MALONE. It is a simple thing. Maybe not national forests but to forests.

If you go out on a prospect in Nevada where there isn't a tree within 40 miles he is not obstructing the Forest Service. He is not obstructing the marketing of timber, is he? All you have to do is just have someone see the claim that is in contest. And if it can be classified

as a timber claim I have no particular objection to your bill. But you are not doing that. You are making this a blanket thing. That has been tried so many times in the last 22 years. And the next thing is a leasing act.

Don't try to explain it to me. I know what you are after.

Senator ANDERSON. Thank you, Mr. Holbrook, for your testimony.

Mr. HOLBROOK. Thank you, Mr. Chairman.

Senator ANDERSON. Mr. Hudoba?

STATEMENT OF MICHAEL HUDOBA, WASHINGTON REPRESENTATIVE, SPORTS AFIELD MAGAZINE

Senator ANDERSON. Will you identify yourself for the record, please?

Mr. HUDOBA. Thank you, Mr. Chairman.

My name is Michael Hudoba. I am Washington editor of Sports Afield magazine.

Senator MALONE. What paper?

Mr. HUDOBA. Sports Afield magazine.

Senator MALONE. Do you have a statement that we can have?

Mr. HUDOBA. Senator Malone, I was just going to make a brief oral comment and ask for the privilege to insert several requests by organizations for endorsement.

I want to thank the chairman and the committee for the privilege of appearing to make a brief presentation in support of S. 1713.

We feel that mining is one of the most essential industries in this Nation, also that it is one of the most glamorous, reflecting probably the last vestige of the original system under which this country was developed and explored.

We also feel that the multiple-purpose use of the public lands and national forests is extremely important, those multiple-purpose uses to include and including watershed protection, minerals, grazing, timber production, and recreational uses.

We are interested in this particular bill because we feel that there are a number of abusers, using the mining laws of 1867 which were codified in 1872, whose purpose is not for mining at all and, yet, who have served, through their spurious activity, to prevent the multiple-purpose uses of surface values of the resources under the management of the United States Government.

We do not wish to restrict any of the individual multiple-purpose uses, but we feel that it is urgent, in order to protect a balanced management program for all of the resources of this type by the objectives of this legislation.

Our interest has come into this because we have received over the years a number of letters from some of the 40 million visitors who have gone onto public lands and the national forests for recreational activity and have come up against the adverse effects of the phony or spurious mining claim which has restricted a public-interest use.

As a result of that we employed an experienced observer-reporter to make an 8,000-mile trip that covered the better part of a year investigating these various reports that come to us via voluntary letters.

Mr. Chairman, I would like to offer, from the May 1952 issue of Sports Afield, the article on page 47 which was the result of that survey.

(The article referred to was filed as an exhibit for the information of the committee.)

Senator MALONE. Who was the writer?

Mr. HUDOBA. Cleveland Van Dresser.

Senator MALONE. What was his background?

Mr. HUDOBA. Newspaper business, newspaper reporter.

Senator MALONE. How old a man is he?

Mr. HUDOBA. He is in his early fifties.

Senator MALONE. What has been his experience in the mining field and in the field of public lands prior to this?

Mr. HUDOBA. The purpose of the article, Senator Malone, was to investigate the reports, and, as a trained, experienced reporter, to determine whether there was substance to the statements in the material that had been submitted to us.

Senator MALONE. In order to determine that—I don't want to interfere with your statement because we can take this up later—but, in order to determine whether there was substance to it, he would have to know whether there was a sufficient showing of mining, minerals, or a showing in accordance with the law, and whether the work was being done in accordance with the law, would he not?

Mr. HUDOBA. The purpose of the survey was to determine whether there were loopholes in the 1867-72 mining laws that encouraged and induced the type of spurious and phony claim activities.

Senator MALONE. In other words, you think he was experienced enough to determine by himself as to whether there was a showing sufficient to justify the location of a mining claim in this area.

Mr. HUDOBA. We did not expect him to make an individual survey on an individual claim as to the validity of the claim.

Senator MALONE. What he did was to determine that these people had located claims in the forest reserves, and they had interfered with recreation and forests. Is that what he investigated?

Mr. HUDOBA. Yes. He would——

Senator MALONE. The claims were there. And the forest reserve people and some of the recreation people said it interfered with their activities. Is that what he investigated?

Mr. HUDOBA. There would be a report of a very palatial residence located on a forest reserve area. And, in checking into it, he would find that it was a mining claim location——

Senator MALONE. But no mine.

Mr. HUDOBA. But no mining activities of any sort. And that is the type of evidence.

Senator MALONE. Have you ever entered any complaint to the Secretary of the Interior on these cases? Or did you just assume that the mining act was wrong because he was there?

Mr. HUDOBA. There was no assumption of any wrong until we had this material developed and looked into. And then the article was made available.

Senator MALONE. Then you just assumed that there was no remedy at the present time for it.

Mr. HUDOBA. We make no assumption of there not being a remedy because we are here endorsing this S. 1713.

Senator MALONE. Then if you are convinced that there is a remedy it would be a criticism of the Department of Interior, would it not?

Senator ANDERSON. There is no remedy under existing law, is there, for a palatial residence being built?

Senator MALONE. I guess not.

I have known of people that build a mill before they find the ore.

Senator ANDERSON. I not only know of them but I did it once, I am sorry to say.

Senator MALONE. I do not want you to be sour against our prospectors on that account because it would take a pretty good salesman to raise the money for a mill to show that it is an active area.

I am trying to find out from you just the objective of this article.

You just wanted to find out if these people were out there. You did not investigate whether there was a remedy for it in the first instance, did you?

Mr. HUDOBA. The article did come to the conclusion that the difference between the surface and subsurface rights was an aggravation and an inducement which created these particular problems. And because those problems did exist and because we do feel that mining activities and prospecting of individuals—some of whom are ardent fishermen and hunters in their own right—but because of that type of phony and spurious activity we are also concerned that it has been a serious reflection on the legitimate mining operations.

Senator MALONE. Let me ask you another question because this is very interesting to me.

You, of course, know or at least you did not follow up my question that this man you sent out had no mining experience, no experience in anything except observing, and he observed a man who had come there and located a mining claim and built a residence.

Now did he investigate whether they had mineral showing or not? And, if they did not, did he make a complaint, or were there any complaints made by the Forest Service and others to the Department of the Interior so that they might investigate and make him show his mineral showing? Make him prove it?

Mr. HUDOBA. Well, these investigations, Senator Malone, were the obvious, glaring examples.

Senator MALONE. I understand.

We used to have some fellow—I forget who he is—make a periodical trip through the West and write an article about the desert lands and how they are being abused by the stockmen and all that.

What was his name? You should remember. You are in that business.

Mr. HUDOBA. Well, there are a number of writers.

Senator MALONE. He is the one that Colliers published several times. What was his name?

Mr. HUDOBA. I don't recall the one you are talking about.

Senator MALONE. He is a mighty good writer, but he showed an abysmal ignorance on the use of forage on the public lands.

What was his name?

Senator BARRETT. De Voto.

Senator MALONE. De Voto.

You must be familiar with the great DeVoto's writings on the desert lands.

Mr. HUDOBA. I read some of them.

Senator MALONE. Is this article the same as those on lands except in the forests? The man knows nothing about what he is writing

about except he goes out and finds that these lands have been located, and he doesn't investigate whether there is a remedy for it or anything at all?

Mr. HUDOBA. We feel we have an objective reporter, Senator Malone.

Senator MALONE. You think you had.

The objective was to see if these men were there, and talk to the Forest Service people and the Bureau of Land Management people——

Mr. HUDOBA. And mining people.

Senator MALONE. Did you find a miner that objected to it?

Mr. HUDOBA. I don't have the notes of the individual who wrote the article, Senator Malone.

Senator MALONE. Would he be available to come here to the committee?

Mr. HUDOBA. I imagine that he would.

Senator MALONE. I think we ought to hear him since you have made this a matter of record.

Mr. HUDOBA. I imagine he would. He is not in our employ. He is a free-lance writer.

Senator MALONE. Where are you from, for instance?

Mr. HUDOBA. I was born in Ohio.

Senator MALONE. How long have you been here?

Mr. HUDOBA. I have been here off and on for 20 years.

Senator MALONE. I haven't been here that long. I have been coming here for about 30. From what I know and what I believe, it would take many years, and, without becoming familiar with the work and paying the taxes, you could not write that article.

Mr. HUDOBA. But from where I live I commute 120 miles a day, Senator Malone. The community I live in has a population of about 100, and we are concerned with farming operations.

Senator MALONE. That is wonderful.

All these people within 20 miles of Washington are living on Washington, in case you hadn't heard, unless they inherited money.

Mr. HUDOBA. I will show you a lot of callouses.

Senator MALONE. I have got them, too, but they are from bridle reins. I do it to keep my weight down.

You are probably an agriculturist. Do you know the difference between a farmer and an agriculturist?

Mr. HUDOBA. Yes; I believe I do.

Senator MALONE. The farmer makes his money on the farm and spends it in town. The agriculturist makes it in town and spends it on the farm.

Washington and New York are full of them.

We have got quite a few of them in Nevada now from the outside who come in and stay there, but we don't take their testimony in mining claims.

I am interested in wildlife. And I am probably more interested in Nevada than you are. We try to coordinate all of our expenditures on flood control and irrigation with wildlife propagation and fish and all that sort of thing. We are right in the middle of it now with the Carson project.

And I read your magazine. I picked it up on the newsstand in Chicago coming in the other night.

But you always have to identify what a man says with his background. That is the reason I am inquiring about it.

Mr. HUDOBA. I appreciate your invitation to do that, Senator Malone, because one of the requirements of an editor on our staff is that we get out and participate. And it has been just within the past year that I took a considerable amount of time and money from the magazine to make an extensive trip, and, in line with that, I get away from Washington at least once every 3 weeks. We have personal friends in every State of the Union, and I have been in every State in the Union and spent time.

Senator MALONE. Do you investigate mining operations? Live-stock operations?

Mr. HUDOBA. Yes, sir, I have. And, as a matter of fact, I have been an improvement man myself for at least 3 years in prospecting.

You have mentioned the illustration of Virginia City. You had some blue metal going down with the mine tailings as waste that gets some yellow metal called carnotite back there when there was no market for it.

Senator MALONE. You must know by now—you have just had a taste of it, and the chairman says he has—that probably there is more money spent in mining than is ever taken out and marketed. Mining is a fever. Some people have it and some don't. I never had the mining fever. I only had the fever to work for these people in mining. And I have seen them, hundreds of them broke, and once in a while one of them gets out with a little money. But that fever persists as long as they have an opportunity, which we gave them under the 1872 Mining Act.

Some of us have tried to preserve it. But when you make it unprofitable, which we have done in Washington now, you are not raising a new set of miners. The kind of miners you are raising is like you. They take a flyer because it looks easy. They lose a little money, maybe more than they can afford, but they are cured.

You don't cure a miner.

Mr. HUDOBA. I agree with you on that because I have not been cured in over 20 years.

Senator ANDERSON. I want to agree with him also. If I could get away from the Senate and have the life to live that I wanted to I think I would spend most of it actually out in the field prospecting. It is the most fascinating business, and I know it is the easiest to lose money in of any I have ever seen.

Senator MALONE. That is right.

But the thing you have to do is make an incentive and have it profitable. And we right here in Washington in 22 years have taken the profit out of mining. And the people who took it out don't have the faintest idea that they have done it, in most cases. But the people who promote these activities that the good people promote, there are some behind that who do know what they are doing, and they make it just impossible for a prospector to go out and get any money now because the fellow says to him and grins at him, "What would you do with it if you found it?"

Lead, zinc, gold, all the rest of it, you can't mine any more because you can mine it in cheaper-living countries and bring it in cheaper than you can mine it here.

The last straw is to start moving in on him on the public lands. Go ahead. I am sorry I interrupted you.

Mr. HUDOBA. Mr. Chairman, I have appreciated the opportunity to get back to some very pleasant memories because I intend to get back into the western country which has captured me so wonderfully.

Senator MALONE. You are talking about interfering with timber and all that.

I would just like to have the opportunity, if I am able to do it, to take you on a little trip.

Mr. HUDOBA. I have an invitation from the Governor to do that. I am looking forward to it as soon as possible.

Senator ANDERSON. Senator Malone was connected for many years with an organization interested in the development of western resources. He has traveled every one of those Western States, including mine. If you ever get started with him on a trip in Nevada he may end up with you in the middle of Montana because he is interested in the West, and loses all track of State lines. I promise you he will take you all over the Rocky Mountain West.

Senator MALONE. In 1931 I served on the President's Public Lands Committee. Some prominent people from New Mexico, the Senator's State, and the Senator on this work that he was talking about, helped materially in setting it up. We don't disagree on the objective; we disagree on how these bureau officials here edge in and finally make it impossible for anybody to do anything on public lands.

Senator ANDERSON. Finish your statement and submit what you can as briefly as you can, Mr. Hudoba.

Mr. HUDOBA. Yes, Mr. Chairman.

I am extremely interested that no emergency of any sort imperil or invade any constitutional freedom of any individual. But we are also concerned that the conservation and wise use of our natural resources is fundamental to the strength of this country. And what is done with those individual resources is extremely important to the future, especially in this world peril.

We are concerned that where there are loopholes which abuse and permit the inadequate management of grazing, timber, recreational assets, and other assets which we may not know about at the present moment, there is something that needs to be done to examine that problem carefully and to offer solutions for it.

In 1872 the population of this country was 38,550,000. There was 1 person for each 10 square miles in Nevada; 4 persons for each 10 square miles in New Mexico.

The population today is 165 million. Forty million people go out to these public lands to enjoy and to appreciate the resources that are available. The resources of these lands are extremely important to the economic and material wealth of this country. And the development that can come out of mineral discoveries and mineral development will be extremely important, particularly in this new age of the atom when we will need new types of minerals and new types of mineral products to meet the needs that will be developed.

So my interest in conservation is an unselfish interest in a desire to see to it that we urge and support the claims that will help the total country and not restrict individual rights.

I would like to offer, Mr. Chairman, for the record, a letter from the Izaak Walton League of America, in which they endorse the objectives of S. 1713.

Senator MALONE. It will go into the record at this point.
(The letter referred to is as follows:)

THE IZAAK WALTON LEAGUE OF AMERICA, INC.,

Chicago 2, Ill., May 3, 1955.

HON. WALTER ROGERS,

*Chairman, Mines and Mining Subcommittee,
Committee on Interior and Insular Affairs,
House Office Building, Washington 25, D. C.*

DEAR MR. ROGERS: Since it will be impossible for me to be in Washington this month when hearings are held on H. R. 5561 and other bills relating to mining claims (H. R. 5563, H. R. 5572, H. R. 5577, H. R. 5595, H. R. 5742, and perhaps others of a similar nature), I would appreciate your having this inserted in the record of your hearings as the expressed opinion of the Izaak Walton League of America.

We would like the Izaak Walton League to be recorded in favor of the essence of these bills as introduced. We are convinced that such language is, however, the absolute rock-bottom minimum that should be considered for the strengthening and improvement of the mining claims situation from the standpoint of administration of law, administration of related or adjacent resources, and the general welfare of the country.

As an organization, the Izaak Walton League has for many years helped in publicizing and focusing attention upon the fraudulent or undesirable practices possible under our antiquated Federal mining laws. More recently we have been greatly disturbed by developments connected with uranium prospecting and claim filing. Federal departments and others testifying before this committee no doubt will detail these things completely and there is no need of burdening the record with additional facts and factors now.

The Izaak Walton League of America is happy to join with the American Mining Congress, livestock interests, the Departments of Agriculture and Interior, timber interests, and other natural resource conservation organizations in urging early and favorable action on H. R. 5561 and similar bills, provided such bills are acted upon without substantial, crippling, weakening amendments. We do wish to emphasize that we consider the present language of the bills as our final defense position below which we do not care to retreat through compromise or conciliation.

Sincerely,

WILLIAM VOIGT,
Executive Director.

Mr. HUDOB. Also, I offer, for the record, at the request of the National Parks Association, a letter to the chairman in endorsement of S. 1713.

Senator ANDERSON. Is that the letter of May 16?

Mr. HUDOB. Yes, sir.

Senator ANDERSON. The chairman was asked to include it, and, since you also have it, I will include it in the record at this point.

(The letter referred to is as follows:)

NATIONAL PARKS ASSOCIATION,

Washington, D. C., May 16, 1955.

Senator JAMES E. MURRAY,

*Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.*

DEAR SENATOR MURRAY: The National Parks Association believes revision of the mining laws to correct prevalent abuses and to prevent future misuse of national forest and other publicly owned lands is urgently needed. Present practices have thrown the administration of these lands for their varied benefits and resources seriously out of kilter. The fraudulent claimant, who is not honestly seeking to develop mineral resources, is able to secure privileges far removed from the proper intent of mining laws; he can seize title to timber, homesites, or other lands in the guise of mining, prevent public use of large tracts of other

lands, and even endanger the orderly management of entire forest units. The National Parks Association is especially concerned by the threat to the national forest wild and wilderness area system represented by such illegitimate claims.

Proposals to amend the laws to achieve this goal have been before Congress for several years. The problem has long been criticized, but the present uranium boom has made it so acute that further delay would be seriously against the national interest.

It is our belief that the problem can best be solved by reserving the surface rights and resources to the United States, subject only to such use by miners as are essential to that purpose. Nonmetallic substances should be placed under the Mineral Leasing Acts, which provide for their orderly extraction without the dangers inherent in including them in the location acts. The present inefficient and ineffective procedures for determining the validity of many claims should be streamlined, and a method for eliminating the obsolete and fraudulent claims now existing should be devised.

The board of trustees of the National Parks Association formally endorsed Senator Anderson's and Congressman Hope's bills, now before Congress as S. 687 and H. R. 110, as most effectively solving this problem, and believes they, or the Cooley bill, H. R. 3414, should be enacted. However, in view of the jurisdictional disputes and opposition that have arisen about them, and because of the need for steps to be taken at once to ameliorate the problem, it is desirable that if S. 687 and H. R. 110 cannot be enacted, S. 1713 and H. R. 5561 should be approved promptly. These bills are carefully drawn and will correct a large part of the difficulty, while still protecting the interests of the miners. We note the provision of section 1 that exempts the national park system from this legislation, and concur with that provision.

It is requested that this letter be made a part of the official record.

Sincerely yours,

FRED M. PACKARD, *Executive Secretary.*

Senator MALONE. I would like to suggest that, as long as we brought this special writer into it and his article has been included in the record, that we bring him before the committee. I would like to question him and see what he knows about it because these special writers, I must say to the chairman, are very important. They spend their lives learning how to write to influence the public, which is a very fine profession. They also can be very dangerous.

Mr. DeVoto is a very dangerous writer because of his lack of personal knowledge of what he is doing.

Most of them read the menu backward, if you know what I mean. They have objectives that they want to accomplish, and they set out to get the evidence to do that.

I don't say that you sent this man to get the evidence to do this, but I could go out with my knowledge of the West, where most of these lands are located, and spoof anybody that does not have any personal knowledge of his own.

There are 2 or 3 stages in a man's education. Mine and yours are in the first stage.

I have had to learn something about public relations because I was State engineer of my State at one time. Now I am here.

I was in the private engineering business for 30 years. I learned something about it. I was a consulting engineer in the Central Valley project in California, and State engineer in my State where we built some dams.

What do you think we did with the fish?

It was full of bass, and below it was full of trout.

Mr. HUDOB. If I may interrupt, sir, our fishing editor spends his winters in your State.

Senator MALONE. That is great.

Let me say something to you.

I am also interested in hospitals. I am interested in public relations. I am interested in your magazine. I read it. But I don't know anything about the business of it.

Don't you see?

I don't know what makes a success of your magazine, or how to run a hospital.

I am one of the ones who helped build some hospitals all over this Nation. I have just been a little cog in the wheel. But I don't know anything about running them.

When I get to talking about business I talk only about the things that I think I understand, the range and mining and engineering and how to build a dam, and those various things.

But when I find men posing as experts to influence legislation on something about which they know nothing, my temper gets shorter and shorter.

If we were investigating how to run a successful sports magazine, you would be a wonderful witness.

In the matter of mining, unless you establish yourself—and I have always had to establish myself as an expert witness when I go before any court—unless you establish yourself as an expert witness you can be very dangerous, if you know what I mean.

I have a most friendly feeling toward you because you are one of the people who provide reading material. I don't get to fish much, but I like to find out what the fishermen are doing.

I am not an expert in fishing. I depend on people like our own fish and game commission to tell me what they want, and then we try to make it a part of the law. We are trying to do it now on the Truckee and Carson Rivers. It is a question of hearing.

There is a difference between an expert witness and one who knows what he wants as an objective and knows nothing about the practical matters that lead up to it.

In 1934 we changed our whole objective of the public lands from Ohio west. The Congress' position was we were holding them in trust for the States until such time as they could figure out some kind of law to get them into private ownership and on the tax rolls. All you have to do is read it. That was for 140 years.

In 1934 we changed that. Mr. Ickes discovered 100 million acres or a billion acres—whatever it was—that nobody knew anything about at all. The only people that knew about them were the people who were making a living off them.

He said we should charge for the use of the stock to the stockmen of all these lands. As a matter of fact, every public land State had been taxing these lands through the livestock on patented land. You couldn't raise the taxes on the stockman. All you could do is redistribute it if he owned all those public lands.

But you heard me outline a while ago that 960 acres was the greatest acreage any man could own. When he got over in the short-grass country—take a sheepman: do you have any idea how much land it takes to run them on out there? We are talking about a township, not sections. Therefore, we were taxing this sheepman, taxing his patented land for waterholes and irrigated land, everything the traffic would bear, which meant he had to have these lands to run his band of sheep.

Ickes comes in and, entirely ignorant of everything—God bless him, he is dead now, but they said all these things while he was alive, so I

am not bringing him up for any purpose except an illustration—he practically ruined many stockmen by his rules and regulations. And the Forest Service is doing the same thing because they are a national outfit.

I have no quarrel with them in the way they run the forests. I think they are expert. But when they get out where there are no trees—and they have lands in the forest reserve—they do not know how to run a range.

Anybody that could stay in business running a magazine these days is an expert because there are certain laws that affect them, too. We just had one up here. That is another thing that might interest you. You are not testifying as an expert in things you know about; you are testifying as an expert in something about which you know nothing, according to your own testimony.

I am sorry I have to say that.

Ninety percent of the witnesses who have been here have no personal knowledge whatever about what they are testifying to.

Senator ANDERSON. You may proceed with your statement.

Mr. HUBODA. Having specialized and dealt with this subject of natural resources for the past 14 years, having been recognized and received a number of awards for such service and knowledge of resources——

Senator MALONE. Received what?

Mr. HUBODA. Awards.

Senator MALONE. What did this experience include? Tell us again. I am interested in it. I really am. And I am sorry to have to go into it.

Mr. HUBODA. Probably no group of individuals, Senator Malone, are more sensitive and more on-the-ground alert to the whole subject of surface values and surface resources than the hunters and fishermen of this country.

Senator MALONE. I am a hunter and a fisherman. Every year I get a deer because I can shoot a rifle.

Mr. HUBODA. You would do better than most of the deer hunters.

Senator MALONE. I know how to shoot a rifle. That is not theoretical with me. I am interested in that very much. But I also have my roots down in the thing we are talking about here, and you don't.

I want to know what you got those awards for, what your experience entails. You brought the subject up.

Mr. HUBODA. To continue, Senator Malone, the statement that I had started, that those interested in the out-of-doors, the hunters and fishermen like yourself, have a unique appreciation of the surface values and the scenic outdoor opportunities, the 33 million license buyers in this country——

Senator MALONE. That includes me.

Mr. HUBODA. The 33 million license buyers of this country, one of each 5 adult individuals, are a cross-section representing every field of activity—you, the distinguished Senator from Nevada, the distinguished chairman from New Mexico, the lawyers, the miners——

Senator MALONE. All of that I admit. But I don't testify as an expert witness on anything that I am not entirely familiar with. And they have not given me any awards for hunting, although I think maybe I could compete with some that have received them. They don't give me any awards for knowing how to handle a recreation area because it is not my business.

I have just known practically all about them in my own State and generally in other States.

What they give me an expert standing on is a matter of building dams and reclamation and flood control and mining and various things where for 30 years I have been familiar and have been drawing pay for it. I could qualify in a court. You can't qualify in a court for running a magazine and talking about a situation about which you are entirely unfamiliar. That is the thing you don't know, in my opinion.

You don't know that the safety of this country depends on producing enough of these minerals or having them produced in an area available to us in time of war, for our safety, for our security. You can do without buffalo, you can do without deer in time of war, but you cannot do without these minerals.

Senator ANDERSON. He might. You can't probe his mind.

Senator MALONE. I want to see if he knows. He has nothing to say that indicates it at all.

Mr. HUBODA. I think possibly the statement that Senator Malone has just made about the future strength and welfare of this country depending on the natural resources may likely have originated in my own editorial columns.

Senator MALONE. Give us one of your editorials, the substance of it.

I know what your editorial probably is, that you have to save these minerals and import them until a war starts, and then you would go out and dig them out. That is what Ickes started, and I think you all followed him.

Senator ANDERSON. Couldn't he testify on this bill?

Senator MALONE. He did. I want to qualify him and see what he knows about it.

Mr. HUBODA. My knowledge of mining has been enhanced in listening to the testimony and the cross-examination by Senator Malone over the past 2 days.

I also have had the privilege of reading a number of reports and documents which he has originated in his own committee.

And, in listening and in covering the capital for 12 years and attending practically every hearing on natural resources subjects and having available the authorities of the country up here in Washington and in the various States, and as a reporter trained to talk and to probe, just as you have been doing in this particular instance, to get the information, we feel that some of it has possibly rubbed off.

But in each instance as we publish once a month we have got to get a vote of confidence, which means that our readers have to accept or reject what they read. And we can only reflect what the body of readers—

Senator MALONE. Right at that point, I am sorry that I have to interrupt, but I think you have established it already.

I can testify on a hospital like you are testifying about this business, but I do not have any information of my own. In other words, if you were testifying about the best rifle to use in shooting a deer, I might dispute what you said but I would have to recognize you as somewhat of an expert. You have hunted and you have studied and you can write an article about that with substance in it.

But when you go beyond that, when you want some regulation out here just as Ickes was successful in getting on the forage when he didn't know the south end of a cow going north, it is something that interferes with the living of these people and the security of this country. And it has been sold to this country. Maybe you helped to sell it. That is the reason I wanted to get this editorial.

"Save our minerals; don't mine them until after the war starts."

We can just have them, you see.

Ickes wanted to save all the oil because we would be out of oil. It is running out of our ears now and he is dead.

Of course, there is nothing you can do about it. But his policies did not prevail.

If your policies prevail we are finally going to get a leasing act, and that is what you all want in this mining business. This is another step. I think you are out of the mining business. Of course, you are out of it anyway as long as some of the laws Congress has passed are in force.

But you say you have been here studying this testimony for 12 years. I could study a doctor's testimony for 400 years if I lived that long and still not know what I am talking about.

Mr. Chairman, that is all I have to say about it. I think this witness has established that he is here because he believes the things he has been hearing as to how you ought to handle public land.

I respect you in your business. I read your magazine.

Senator ANDERSON. Go right ahead and finish your statement.

Mr. HUBODA. Mr. Chairman, if I may continue just briefly, referring to the bill, we are concerned in this legislation about the wildlife refuges and the effect it would have on the wildlife refuges. We are also concerned under section 2 that there are special acts of Congress dealing with the appropriation of money on refuge receipts, and so forth, and that matter may be taken into consideration.

We have a concern in section 4 (b) that if the interpretation of the United States is a United States agency, its permittees and licensees, that there may be an effect upon an individual fisherman or hunter who is licensed by a State, and whether there would be a restriction there.

If the United States is interpreted to be the individual State, then there would be no concern. But if the interpretation is an agency of the Government, the Federal Government does not issue fishing and hunting licenses.

Senator MALONE. I think we are coming to that in due time, that about the next thing will be, after we get all through with this thing, the Government will be issuing fishing licenses.

So no one has to move out of Washington. They can just sit here on their nice soft cushions with air conditioning and do the whole business right from here.

Mr. HUBODA. Senator Malone, the Supreme Court has stated in decisions that the fish and wildlife resources, with the exception of migratory birds, are the property of the State which is the custodian for the resources.

Senator MALONE. I have seen that Supreme Court change entirely around in 30 years. So you can expect anything just as soon as they get a place to hang their hats.

Mr. HUBODA. In closing, Mr. Chairman, I would like to state that we are again interested in the multiple-purpose use of all of the resources. We do not feel that any constitutional freedom of an individual should be impaired under any circumstance for any emergency.

In examination of this proposed legislation we do not feel that that is the case. And I want to endorse the excellent statement on conservation made by Senator Anderson as a preliminary to this hearing. I want to commend the American Mining Congress for its recognition of this problem, and the American Forestry for its auspices in helping to bring this matter to this point.

Thank you.

Senator MALONE. I have been glad to see you.

Senator ANDERSON. Let me just say that the Izaak Walton League also sent a letter addressed to the chairman, which will be placed in the record at this point.

(The letter referred to follows:)

THE IZAAK WALTON LEAGUE OF AMERICA, INC.,
WESTERN OFFICE,
Denver, Colo., May 16, 1955.

Re S. 1713.

Hon. JAMES E. MURRAY,

*Chairman, Senate Committee on Interior and Insular Affairs,
Senate Office Building, Washington, D. C.*

DEAR SENATOR MURRAY: Izaak Walton League members living in the western public-land States have long been concerned at the grave loss of public values in the national forests due to our antiquated mining laws. We have been hopeful that some changes might be devised, acceptable to all interests concerned, which would eliminate the abuses possible under present law and eliminate avoidable loss and damage to the important surface values of timber, watersheds, grazing, wildlife, and recreation.

We have studied the legislation which your committee is now considering, especially S. 1713. We do not believe this legislation, if enacted, will solve all the problems. However, we do believe it will go a long way toward correcting many of them, and it has our endorsement.

We respectfully urge that your committee report S. 1713 favorably.

Sincerely,

J. W. PENFOLD,
Western Representative.

Senator ANDERSON. Senator Malone, I did not put the magazine article in the record. I merely put it in the files of the committee.

Senator MALONE. That is a good idea.

Could we call the man in who wrote that article?

Mr. HUBODA. I don't know where he is. He is on another assignment now for us, and I would have to find out.

Senator MALONE. Find out where he is.

Mr. HUBODA. He is not our employee.

Senator ANDERSON. May I put in the record also a letter from Alfred J. Kreft, past president, Portland (Oreg.) Chapter of the Izaak Walton League of America, dated May 11, 1955, enclosing an editorial which he requests permission to put in the record. The letter reads as follows:

Hon. CLINTON ANDERSON,

*Chairman, Interior and Insular Affairs Committee,
United States Senate, Washington, D. C.*

DEAR SIR: I enclose a very excellent editorial from the Portland (Oreg.) Journal, an independent newspaper, which commends very highly the proposed bills that you and Representative Ellsworth have introduced this session in your respective branches of the Congress. The editor hopes for its passage, as do many of us.

As past president of the Portland (Oreg.) Chapter of the Izaak Walton League of America, I have personally studied this bill and find that it corrects most of the abuses that the league has been criticizing.

I urge that your committee approve this bill and work for its passage in the Congress. Please make this editorial and my letter part of the official record of the hearings.

Very sincerely,

ALFRED J. KREFT, M. D.,
Past President, Portland (Oreg.) Chapter, Izaak Walton League of America.

The editorial from the Oregon Journal reads:

REALISTIC MINING-TIMBER ACT

Last year 1,087 mining claims were filed on national forest lands in Oregon and Washington. They have pushed the total of unpatented claims on Forest Service lands in the two States to 10,417, of which 6,667 are in Oregon.

They have tied up 284,588 acres of forest land, on much of which the Federal Government can neither harvest timber nor build access roads to adjacent lands.

This tells only a small part of the story of widespread abuses based on the weak and outmoded mining laws of 1872. "Bogus miners" by the thousands have filed claims on valuable stands of timber and summer-home sites with no intention of seeking mineral deposits. Last year, of 84,000 unpatented claims in the Nation, only 2 percent were producing commercial quantities of ore, according to Forest Service figures. It was estimated that not more than 40 percent might prove to be valid under the mining laws.

Year after year remedial legislation has been presented in Congress but has always met defeat, partly through pressure on the part of legitimate mining interests which feared the proposals went too far.

Legislation now before Congress seems to have a better chance of success. H. R. 5577, bearing the name of Oregon's Representative Ellsworth, would go far toward cleaning up the mining-law abuses. Several other identical bills are in the House, and a like bill in the Senate is signed by Senator Clinton Anderson (Democrat, New Mexico), author of a more drastic 1953 bill which failed.

These proposals have the backing of the Departments of Agriculture and Interior, the American Forestry Association, and several mining organizations.

The legislation would put an end to the practice of filing mining claims for sand, stone, gravel, pumice, and cinders, and make them subject to the Mineral Disposal Act.

It would, prior to patent, prohibit use of mining claims for any other purpose than prospecting, mining, and related activities; permit the Government to manage and dispose of timber and other surface resources and to build access roads; prevent the mining claimant from removing timber or other surface resources, except for that required for mining activities; set up a legal procedure by which the Federal Government might more expeditiously resolve thousands of abandoned, dormant, or unidentifiable claims.

Earlier bills sought to keep control of timber in Government hands even after patent. This the Ellsworth bill does not do, but forestry officials assure us that by far the larger number of abuses lie in claims which never could be patented. They are satisfied with the bill as written. We hope Congress will give it the green light.

I would like also to have in the record at this point a statement from the Independent Timber Farmers of America.

(The statement referred to follows:)

STATEMENT OF CHRISTOPHER M. GRANGER, REPRESENTING THE INDEPENDENT TIMBER FARMERS OF AMERICA IN SUPPORT OF THE ENACTMENT OF S. 1713

The Independent Timber Farmers of America is an association of small timberland owners and operators active in a number of central and northwestern States. Its purpose is to facilitate the operations of its members and to promote good forestry practices on their holdings. Also, as forest-land managers, the group is strongly conservation minded and favors all constructive conservation legislation. It endorses the purposes of S. 1713 and recommends its enactment.

It is known that this measure represents a compromise between Federal land administrators, the mining industry, and conservation groups. Concessions were

made by the three groups in the interest of joint support of a measure to remove or lessen some of the abuses of the general mining law. Unquestionably the bill, if enacted, will represent a very desirable step in that direction, without interfering with legitimate mining operations on the Federal lands.

The situation requires prompt action. Mining claims are being located at a terrific rate on Federal lands, multiplying daily the actual or potential difficulties of properly administering the other resources of these lands. It is urged that this legislation be enacted without fail during this session of Congress.

When enacted, this measure should be given a fair and thorough trial. I have no thought of suggesting any amendments now. But it is well to bear in mind that conservationists would like to have seen included several added features which have appeared in whole or in part in earlier bills, such as:

1. A requirement that the claimant should pay a fair price for the surface resources of the claim upon patent—particularly the timber not needed in operating the claim. This would further reduce any incentive to patent a claim of low mineral value in order to obtain high-value surface resources.

2. A requirement that surface operations, including placer mining measures, and discovery operations on both placer and lode claims must be conducted under reasonable restrictions to minimize soil erosion, pollution of water resources, damage to watersheds, and for restoration of the surface. A large and increasing amount of avoidable damage is occurring.

Experience under this bill, if enacted, may show the need for later consideration by those who united to advocate this legislation of some additions similar to the foregoing.

CHRISTOPHER M. GRANGER.

Senator ANDERSON. I also am in receipt of a letter dated May 12, 1955, from Stuart Moir, Forest Counsel of the Western Forestry and Conservation Association, addressed to me, which reads as follows:

DEAR SENATOR ANDERSON: We would like to present our views on your bill, S. 1713, which is a proposal to amend the mining laws so as to correct certain weaknesses in the existing laws.

The Western Forestry and Conservation Association represents forest landowners in the western United States. It is a nonprofit organization, interested in the proper protection and management of forest lands and the wise use and sound administration of all natural resources.

We realize that the mining industry is essential to the economic welfare of the United States and that an efficient domestic mining industry must be maintained as a basic component of national security, and that any legislation affecting the mining laws must give full cognizance to this fact.

For years there has been a conflict of interest in several areas in the West with the forest properties on one hand and mining claims on the other. In many cases the mining claims were for common materials such as sand, gravel, stone and pumice. These conflicts have materially increased in recent years, due to the impetus given to the development of both mineral and forest resources resulting from the recent war and its aftermath.

We believe that the frequent abuse of the present law to acquire summer homesites or tracts of valuable timber by locating such common materials should be corrected promptly. The filing on a marginal timber claim just to acquire timber should be made unlawful.

Many forest operators are now seriously handicapped in their operations by being cut off from access to their properties by mining claims; and many millions of feet of Government-owned timber is bottled up and rendered unavailable for operation by the same action on the part of some mine claimants.

Your bill, S. 1713, provides safeguards against the abuses of the mining laws, such as I have mentioned above, and will enable the United States Forest Service and the Bureau of Land Management to sell timber on mining claims prior to their being patented and will also provide for access across mining claims to operating forests. Its provisions would not adversely affect a bona fide mining claim locator engaged in the development of the mineral resources. Approval of the bill by your committee and its enactment by Congress is greatly to be desired, and this association sincerely hopes that Congress will accomplish this improvement.

We respectfully submit this statement for your consideration and request that it be included in the hearings of the Committee.

Sincerely yours,

STUART MOIR,
Forest Counsel.

Senator ANDERSON. Also for the record the committee is in receipt of a telegram from the American National Cattlemen's Association, F. E. Mollin, executive secretary, which reads as follows:

We wish to make the following statement in favor of enactment of S. 1713 and ask that it be included in the record.

The American National Cattlemen's Association, Denver, Colo., was organized in 1898 and is a voluntary association representing 24 State cattlemen's associations, many local and regional and regional cattlemen's groups and thousands of individual cattlemen.

In January the association passed a resolution deploring the present laws with respect to letting and holding mining claims as outmoded and inconsistent with the proper use of Federal land, pointing out that many claims are filed on and held for years for purposes other than mining. The resolution asked that our mining laws be revised so that claims will be held consistent with the proper use and management of Federal lands for all users.

The American National Cattlemen's Association has consistently supported free enterprise and individual initiative and has always favored full development of the natural resources of the Nation for the benefit of all the people. It has no desire to interfere with the legitimate efforts of prospectors to locate and develop claims.

However, there has been in recent years a growing tendency to take advantage of the broad latitude in our present mining laws and to use claims held under those laws for purposes far removed from development of mineral resources.

We believe that S. 1713 will help to correct this tendency and that it is in accordance with the desire expressed in our resolution cited above. It would bar the use of unpatented mining claims for purposes other than prospecting and mining and processing and gives the Government the right to dispose of timber, forage, and other surface resources not actually needed in the mining operation.

Old and abandoned mining claims have created uncertainties and confusion as to the rights to the use of many pieces of land for grazing. S. 1713 provides for a procedure under which control of the surface value of lands can be resolved and uncertainties cleared up, with due consideration for the rights of legitimate operators of active claims.

The bill provides that the Government or its licensees or permittees may use such surfaces of unpatented claims as are necessary for access to adjacent land so long as that does not interfere with the mining or related operations. Mining claims have often unnecessarily blocked livestock trails and prevented proper use of adjacent land.

May we urge your favorable consideration of S. 1713.

Senator ANDERSON. Also, for the record, I have a letter addressed to the chairman, dated April 29, 1955, from C. H. Murphey, executive director, New Mexico Mining Association, which reads as follows:

DEAR SENATOR MURRAY: It is our understanding that S. 1713 will probably come before your committee for consideration shortly after the middle of May.

In order that you may be informed concerning the attitude of our organization with respect to this proposed piece of legislation, we wish to advise that the majority of our members endorse enough of its provisions to permit a full endorsement on our part. It is expected that some of the abuses of the mining laws that have been erroneously charged against our industry will be corrected with the enactment of this measure.

With assurance of our best wishes, I am

Cordially yours,

C. H. MURPHEY,
Executive Director.

Senator ANDERSON. Now we will hear from Mr. Palmer.
Mr. Palmer, will you identify yourself and your organization.

**STATEMENT OF ROBERT S. PALMER, EXECUTIVE VICE PRESIDENT,
COLORADO MINING ASSOCIATION**

Mr. PALMER. My name is Robert S. Palmer.

Senator ANDERSON. What is your position?

Mr. PALMER. My position is that of executive vice president of the Colorado Mining Association. I am actively engaged in mining in New Mexico and Utah and in Colorado, and I have been in the active practice of the law, mining law in particular, for the last 22 years.

Senator ANDERSON. Your office is in Denver?

Mr. PALMER. My office is in Denver. I appear here by request and not through any desire of mine to impose upon the time of this committee.

The National Western Mining Conference held in Denver last February attended by 2 members of your Senate committee and some 3,500 mining people from public land States unanimously adopted a resolution opposing any change in the basic mining law on the grounds that it had been interpreted by the courts to such an extent that it could be easily understood by the average prospector without fear of some new interpretation involving expensive litigation.

The executive committee of the Colorado Mining Association recently voiced its approval of S. 1713 with the expressed hope that its provisions would be amended so as to restrict its application to national forests, and the further hope that no valid mining locator would be deprived of the use of timber found on his claim or contiguous claim for essential mining purposes.

The executives of the association which I represent have a very high regard for the acting chairman of this committee and the other sponsors of this legislation, and were greatly impressed with the assurance of Senator Clinton P. Anderson that it was not the intent of the legislation to deprive any miner of valid rights.

May I here add that we in Colorado consider Senator Eugene D. Millikin the ablest mining lawyer who has ever served our State in the Congress, and we rely implicitly on his analysis of pending legislation affecting our vital industry. As for Senator George Malone, we are highly appreciative of the great work he has done and is doing to make America a have nation as far as minerals are concerned so that the United States will not become dangerously dependent upon foreign sources for the safety and security of our people.

The fear we have of this legislation is that its administration and interpretation may not be in line with the intent of Congress.

As an illustration of this point, when the Leasing Act of 1921 was enacted into law it was not the intent of Congress, as shown by the debates, that leased lands were to be withdrawn from mineral entry. Yet the Department of the Interior, in Joseph E. McCloy, et al. (50 L. D. 623, 1924), held that the Leasing Act was effective to withdraw from mining location all lands known to be valuable for Leasing Act minerals and all lands for which an application was pending for a mineral lease.

I wish to state that I am one of the few people who has read all of the debates on the floor of the Senate when the Leasing Act was under consideration, and can state without any fear of contradiction that there was no intent on the part of any Member of the Senate expressed

in that debate that the Oil Leasing Act was designed to withdraw any area from mineral entry.

Under present law, lands in national forests are open to location only in strict accordance with forest regulations. I have before me a reprint of the Utah Law Review, volume 4, No. 2, which was recently presented to me by the editor, in which this is pointed out.

The cases cited are *U. S. v. Mobley* (45 Fed. Supp. 407, supplemented by 46 Fed. Supp. 676 (S. D. Cal. 1942)) and *U. S. v. Rizzinelli* (182 Fed. 675).

Senator ANDERSON. That is the saloon case which I mentioned yesterday.

Mr. PALMER. The latter case, as we all know, decided, as far as the law is concerned, that no one can acquire a mining claim for the purpose of locating a saloon there.

Formal acts of appropriation must be accomplished in strict compliance with Federal and State law in order to initiate rights to a lode claim.

The average miner, therefore, asks why penalize valid locators of mining claims simply because some unscrupulous people attempt to violate the law.

We have pointed out many times that enforcement of the present law will alleviate the difficulty. This was not only the position of our association, but every other mining association, including the Mining Congress, up until last year.

Why the change?

Mr. Richard E. McArdle, Chief of the Forest Service, said yesterday, in part, and I quote:

The problem of preventing misuse of mining claims on the national forest and providing equitably for multiple development of both minerals and national forest surface resources on such claims is probably the most important single problem facing the Forest Service at the present time in its administration of the national forests.

If we accept this statement at face value, one might reasonably ask why extend the provisions of the proposed legislation to all public lands outside the national forests.

The answer has been suggested that all areas should be treated alike. We ask, if it is impossible to patrol the national forests, how is it going to be possible to enforce the legal requirements for valid locations and see that every tree or bush is cut on every location—and I quote from the bill: “in accordance with sound principles of forest management.”

A miner asked me before I left Denver, “Suppose I locate a claim on the Colorado Plateau and cut a tree or bush not in accordance with sound principles of forest management. Under the provisions of this act are they going to throw me in jail?”

Senator ANDERSON. What did you tell him?

Mr. PALMER. I refused to answer the question, sir.

Senator ANDERSON. But you could have answered it.

Mr. PALMER. I am not sure what the answer is.

Senator ANDERSON. How many years have you practiced mining-law?

Mr. PALMER. I was admitted to practice in 1928.

I will be very happy to give him your answer, Senator.

As William Colby, that eminent mining lawyer who practiced law in California for some 30 years with the great Lindley, who compiled the classic works on mining law, said, if you can't enforce the present law, what assurance do we have of enforcement of the new law?

Mr. McArdle said this bill is a very significant and major step forward, and, if funds are available for its implementation, will result in correcting a very substantial portion of our problem.

A step forward to what?

Elimination of the prospector from the national forests?

Are we to have Forest Rangers chasing miners all over our mountains?

If so, then I fear there will be serious reaction in the public land States.

Senator ANDERSON. Do you believe that is the purpose of the bill?

Mr. PALMER. I do not believe that the Congress intends that as the purpose of the bill.

Senator ANDERSON. Do you think that if it is passed that the Forest Rangers will start running the mining prospectors off?

Mr. PALMER. Senator, may I say to you that I honestly believe that more miners have come into my office in Denver for advice on conflicts with the Forest Service than into any office in the United States. It so happened that just before I left Denver three miners came into the office stating that their mining location was being contested by the Forest Service under the present law.

Senator ANDERSON. Do you mean the present law?

Mr. PALMER. Under the present law.

Senator ANDERSON. I thought the present law was something they couldn't touch a man under.

Senator MALONE. Yes; that is what I have been arguing about for 2 days.

Mr. PALMER. I strictly said here, Mr. Chairman—"Enforced."

Senator ANDERSON. The present law was enforced.

Mr. PALMER. That is right.

Senator MALONE. That is right.

Mr. PALMER. And these men were being hounded by the forest ranger for constructing a cabin on a location which they had made for the purpose of developing a mine. The mineral that they had found in place was iron pyrite. They were driving a tunnel with hand steel. They were formerly employed in Leadville as miners and were now retired because of age and were attempting to make a livelihood through the location of a mining claim in a national forest.

Senator ANDERSON. How did the forest ranger harass them?

Mr. PALMER. The forest ranger is said to have told them to get off the property, that they had not found any mineral in place in such quantity as would justify a reasonable person in pursuing his claim, and with the further allegation, which has been filed with the regional administrator of the Land Office, that the lands were more valuable for forest uses than they would be for mineral uses.

Senator ANDERSON. Does the forest ranger concede that he made that statement?

Mr. PALMER. I have discussed the matter with the local authorities. I have not discussed the matter with the forester himself. But the matter is being set for hearing under contest procedure.

The point that I make is that here is a situation in which, under present law, there is quite a good deal of activity on the part of the officials of the Forest Service.

I might cite to you just one other illustration.

One of our members has some patented placer claims in the vicinity of Denver. On these patented claims are some trees. The owner of the property authorized the cutting of some of the trees for the purpose of thinning out an area. The cutters trespassed on the national forest 10 feet without knowing that they were doing so, and immediately the forest ranger appeared and advised them of the trespass, and suggested that they pay the Government a stumpage fee for the timber that had mistakenly been cut.

Senator ANDERSON. Is there anything wrong with that?

There is nothing wrong with that. I commend the Forest Service for enforcement of the law.

Mr. PALMER. The point I am making is that the statement was made in testimony here that it is not possible for the Forest Service, with present personnel, to enforce the mining laws in the national forests.

As far as I know, in Colorado it not only is possible; it is being enforced.

Senator ANDERSON. In my home town a man built a garage and he inadvertently built it an inch and a-half over on the other man's area. Now as a lawyer you know what the other man's remedy was, don't you?

Mr. PALMER. That is right.

Senator ANDERSON. He told him to move the whole building.

He had that right, didn't he?

Mr. PALMER. That is right.

Senator ANDERSON. The Forest Service had the right, did it not?

Mr. PALMER. That is right.

Senator MALONE. I think the point was that the fellow was on the job and he was enforcing it and doing a good job and was to be commended. But the testimony here for 2 days has been that it is not effective the way it is now; the present law is not effective.

Senator ANDERSON. I was thinking, Senator Malone, of an incident when I went home one summer. I spent 4 or 5 days in Albuquerque and tried to maintain an office in the Federal Building. One of our men who is most militant against the Forest Service—I heard his boots coming down the hall, and he came in boiling. He told me that the Forest Service had taken his telephone number away from him at his sheep camp. He had 22R at his house, and 22J at his sheep camp. And they had taken his number away from him, and he wanted the Forest Ranger fired that day.

That is why I asked the question about the Forest Ranger.

He insisted that I fire him then on his absolute assurance that that had happened.

That man was a fine man, a long-time personal friend.

Senator MALONE. Maybe he overrates the Senator as to what he can do.

Senator ANDERSON. At that time I was the Secretary of Agriculture.

He wanted me to fire him that day, and he wanted me to do it personally while he stood and watched me do it.

I delegated to one of the men the responsibility of running the case to a complete end.

He found the man, and the man admitted that the telephone company had done it, and, on his own volition, the Forest Ranger had driven all the way in to Albuquerque, 100 miles, to protest because he said that this man would not take it lying down.

The Forest Service Ranger did that, but to this day we keep hearing the story about how he took his telephone number away from him.

That is why I wanted to know if these Forest people had admitted that they had been in there browbeating people and harassing people.

Senator MALONE. The Forest people in Nevada, I have no quarrel with them at all as far as forests are concerned. I only quarrel with them when they try to do something entirely out of their field.

Of course, in our State if may be an exception. I think they do a good job. I think they are fully capable of doing the job that this bill is designed to do. That is, I think, the point that Mr. Palmer made.

Mr. PALMER. Now, Mr. McArdle estimates that at the beginning of this year there were 166,000 national forest mining claims. If this be true, then in our forests alone there will have to be completed \$16,600,000 worth of assessment work this year, and if the 4 million acres go to patent there will have to be \$83 million worth of work done on those claims, and, in addition, the United States Government will receive \$20 million in revenues besides the mineral surveyor fees, court costs, beans and bacon, legal fees, trucks, equipment, supplies and whatnot which will have to be paid for by the miners.

And I have assumed in these compilations, Senator, that no production from any of these claims will take place. If production takes place the revenue received by the Federal Government will be in substantial amounts.

Senator ANDERSON. Do you know whether or not a man has to do his assessment work the very first year when he files one of these claims?

Dr. PALMER. I know the law, yes, sir.

Senator ANDERSON. Do you know any loopholes to the law?

Mr. PALMER. No, sir; not when it is properly enforced.

Senator ANDERSON. Do you know that if a man fails to state on his application blank that he is a citizen of the United States that in certain types of mining claims, at least, that can delay it from 14 to 18 months? It just takes that long to go through the routine of writing back and getting data to show that he is a citizen.

Mr. PALMER. You mean in a contest?

Senator ANDERSON. No. In the first step of mining. I don't say when he goes out and files under the ordinary 1872 law, but when he is filing for a coal mine, for example, under the 1920 law. How many years can you postpone it before you have to do any assessment work?

Mr. PALMER. Under the mining law you are required to do it every year.

Senator ANDERSON. Would you anticipate that out of these claims all of them or a substantial part of them are trying to do assessment work?

Mr. PALMER. That is a very difficult question for me to answer, but I would say that at the present time—and I assume that a great many of

these claims are uranium locations that have been cited by the representative of the Forest Service—a great deal of money is being expended in the exploration and development of these claims.

I would like to take just a minute here to say one word about these expert miners, geologists, and mining engineers who have been referred to as competent locators of mining claims.

Would Charlie Steen or Vernon Pick qualify as an experienced, qualified mining man?

Senator ANDERSON. Do you find anything in this bill that would prevent Charlie Steen from going out and hunting for it?

Mr. PALMER. I find nothing whatever. But the Forest Service, before bringing a contest, generally sends out a competent mining official to examine the premises and to see whether ore has been found or mineral has been found in place in such quantity as would justify a reasonable person—not a miner, but a person—in the development of his claim. And I wish to—

Senator ANDERSON. You understand, don't you, that there is not a person connected with this bill who wants to stop that from being done?

Mr. PALMER. I think that is a correct statement with respect to the Members of Congress.

Senator ANDERSON. That is what I said, a person connected with the bill.

Mr. PALMER. The only reason that I appear here by request is to point out that, No. 1, legislation has been enacted by this Congress which has been interpreted by the Departments adversely to the best interests of the Nation and to the best interests of the development of our mines.

Secondly, we feel that a great deal of money has been expended in litigation, cases which have been decided by our Supreme Court with respect to the present law. And I am sure you will agree that when new legislation is enacted that the miners or anyone else do not know its true meaning until the courts have interpreted the language.

We have full confidence in the authors of this bill and in the members of this committee. But we have some apprehension as to what the interpretations may be in its application to an industry which we consider vital to the welfare of the Nation.

Senator ANDERSON. I think I would agree with you to this extent, that a good law can be so badly administered that it might better not have been passed at all.

But that does not justify administering agricultural laws the way they were not intended to be handled. And I think you will see that in every Department of the Government.

I only say that all you can do in the Congress is to try to enact what you think is going to be a good law and going to improve the situation, and probably hope for the best.

Mr. PALMER. Well, I wish to commend Mr. Holbrook and the American Mining Congress committee, and Mr. Bennett and others who have participated in the drafting of part of this legislation. I really feel they have done an excellent job. But I do feel that when you draft new legislation affecting the mining industry that great care is required. It is not because we do not agree with you in principle. It is not that we are critical of any of these other

organizations, or in disagreement as to fundamental concepts of mining law. It is just that the average miner today does not have the funds with which to enjoy the luxury of litigation.

Senator ANDERSON. He need not have litigation, Mr. Palmer. Public Law 585 that we passed attempted to say that there was a conflict between oil and gas, on the one hand, and mining or minerals on the other, and tried to resolve that by exactly the same in rem procedures that are involved in this. Not precisely, but almost precisely.

In this particular instance you have the same sort of a conflict between surface rights and mining rights, and you try to handle it on exactly the same basis.

The only conflict is as to surface rights not connected with mining. But you recognize that this law does not in any way touch the Mining Act of 1872 as far as minerals are concerned, nor the use of surface rights for that mineral.

It does involve the illegitimate and improper uses. And I have difficulty understanding why mining men are opposed to that sort of thing.

There used to be an editorial writer at the old London Spectator who wrote many years ago that a great wrong dies in the hour of its greatest triumph. And this filing of thousands and thousands of uranium claims and trying to tie up timber development, and doing it in the name of liberty for the individual miner, may cause trouble to the mining law of this country some day. But if you would permit us to try to rectify that great wrong, then you will preserve the mining law of 1872 and continue to have it applicable.

Mr. PALMER. May I make this observation of that statement, Mr. Chairman—

Senator ANDERSON. Yes, I wish you would because, as you know, we don't seem to agree on this legislation. But I have a good deal of respect for your judgment over a long period of years. I am interested in what you have to say.

Mr. PALMER. I say that officially we agree with you on this legislation. We are trying not to disagree with you. If it were sponsored by others we certainly might.

You are chairman of the Joint Committee on Atomic Energy. As late as a year ago the former chairman of the Atomic Energy Commission wrote a book—I refer to Gordon Dean—"A Report on the Atom," which led the reader to conclude that there were no substantial amounts of primary uranium ore in the United States. In other words, the United States was largely dependent for its sources of atomic energy on outside sources.

Senator ANDERSON. That is not the interpretation of that statement. I don't believe.

Gordon Dean knows that the Colorado Plateau is full of uranium, and says so in the book, the Report on the Atom.

Mr. PALMER. Gordon Dean specifically stated in the book that there were no substantial amounts of primary uranium ore in the United States.

Senator ANDERSON. Is there?

Mr. PALMER. Since that report the people to whom you have referred as going out and locating mining claims have uncovered primary deposition of substance in the United States. Just before leaving the West it was announced that in a new area in Utah which had

previously been pronounced barren, uranium ore was being found as a result of drilling. Claims which some people would have condemned as invalid locations were now valid. Because somebody had sense enough to put down a drill hole, and ore was found at a depth.

Senator ANDERSON. I am sure there must be a misunderstanding as to his use of the term because at the time he wrote the book, just prior to his writing the book, he discussed with me the large mining in New Mexico which has \$100 million worth of uranium ore. You and I know which State now has the largest undeveloped uranium ore deposits in the Union.

Mr. PALMER. I recognize your leadership, sir.

Senator ANDERSON. Gordon Dean and I discussed that before his book was published and while he was engaged in the writing of it.

So I say to you that it is a confusion of terms. He understands that there is uranium in this country.

Mr. PALMER. Yes as to the deposits which are not considered as primary. I think the term I am using is correct. I think the term used by Gordon Dean was correct at that particular time. I am not criticizing Mr. Dean. I have a very high regard for him.

But the point I make is that some people are criticized for making questionable locations, which later developments prove are very much in the public interest. The people who are primarily responsible for the uranium development in the United States are not major companies and are not necessarily engineers or capable locators but just average Mr. America. The people who have brought into production the major deposits of uranium in the United States have been the prospectors concerning whom Senator George Malone has addressed a great many of his comments.

I wish to point the value of the prospector.

Senator ANDERSON. I don't argue this question of prospectors, not only in these minerals but in oil. We all know the story as to who digs up the new fields and brings them in.

As I say, I recognize that you don't always succeed.

You are familiar probably with the mining venture that I got myself into in the northern part of New Mexico.

Senator MALONE. Mr. Chairman, I would say right at that point, and I think the distinguished Senator from New Mexico, if he stops to think, knows as well as the Senator from Nevada or the secretary of the Colorado Mining Association, that it is the wildcatters and prospectors without adequate funds, many times without any funds, to carry through the operation, that go out and find this material—oil, gas, and minerals—because they just have nothing better to do. They spend their lives doing that. If they hit it, they make some money; that is, if Washington does not interfere with it; and if they do not hit it, they die broke.

Hundreds die broke where one makes it. We all know that. It is a fever.

Now, the men with the money generally are represented by an engineer of some reputation. He sends his engineer in after the discovery has been made. These engineers really go out on exploration ahead of time.

Now, they do have some that do that, but the majority of the explorers and prospectors and wildcatters are financed by their friends or through selling stock.

I could name 5 or 6 men that have money or have backing, like Odlum, who has gone in and bought out 1 man that did not know any more about prospecting for uranium than my grandson, bought him out for \$9 million or \$10 million. He says himself in his life story that he knew nothing about uranium, but he went in there with his wife and they worked like a pair of slaves and they had a little luck of the Irish and they found some ore that the money was attracted to.

I could name 5 or 6 that have gone in there, but they did not go in and find it. They go in on some of these people that found it on the claims that these experts, these soft-cushion experts in Washington, would have run off the claim.

They are the people I am talking about.

The fellows that these men have testified to, this is the second day, would not let these people go. They would say no prudent man would put his money in there. Of course, they wouldn't. But they are not prudent men, these wildcatters, in the oil and gas. They are not prudent men these prospectors. They are men sometimes at the end of their rope. They have to do something and they have this fever. When they get the showing which 1 out of every 100 maybe gets, gets something like Odlum or someone representing them, and they buy control.

Very often the man who sells it doesn't make much money, but it is a good deal to them. But they have money to lose. But the men we are interested in are the men these people have been talking about for 3 or 4 days. What did they call it? They had a name for it. Fraud. That is what they said. These are fraudulent claims that this man found this uranium and got \$10 million. That is a fraudulent claim, if these fellows had examined it ahead of time.

Senator ANDERSON. That is not correct.

Senator MALONE. There is nothing in there that a prudent man would put money in.

Senator ANDERSON. Let me ask this question: Is it any cheaper for a miner to defend himself under the rules and procedure now established under the law of 1872 than it would be under S. 1713?

Mr. PALMER. The answer to that question obviously as to the validity of his claim is "no." But the full answer to the question is that there is an obligation placed upon the locator under the terms and conditions of this bill which does not exist in the present legislation.

Senator ANDERSON. As to surface rights not needed for mining?

Mr. PALMER. Well, of course, people may differ as to what surface rights needed for mining are.

May I point out, to you, Senator, that there are some other questions involved in this bill which are quite substantial. For example, at the present time, they are finding uranium in conjunction with coal beds. Now, under the terms and conditions of this bill it is possible for a licensee to acquire coal lands and to have a very definite advantage over a locator of uranium on the same area; that is a question which I do not think can be decided at this hearing, and undoubtedly will require some interpretation.

I understand the commission is giving it some thought and consideration at the present time.

Senator ANDERSON. Let me say that when that arrives, I will try just as hard as I tried on the original Public Law 585 to be fair and to be helpful to the people in that area as will Senator Malone and everybody else. I do not believe we have different goals. I do believe very strongly that the continued filing of mining claims for the purpose of getting surface rights and not intending to try to get the minerals is placing the whole mining program in jeopardy. Such practices make it more difficult to be of assistance to mining than it has been in the past.

My whole purpose in sponsoring this proposed legislation from the very beginning was to try to make sure that we did not get so many bad practices that the prospecting for minerals would get into difficulties. I still hope to keep it on that basis.

Mr. PALMER. Will there be bad practices under your law as well as under present law?

Senator ANDERSON. I think there will not be. I think, for example, the people who go and try to acquire a piece of mineral land for the sake of water and timber will not do it.

Mr. PALMER. I wish to point out, Senator, and I am sure you are familiar with the area in which most of the uranium is being found, that it is not in a green forest with a babbling brook flowing through it but an isolated area where temperatures go as low as 25 or 26 below, where mud conditions are extreme and where sand and other difficulties are encountered causing a great hardship for those miners who seek to locate claims in these areas.

Senator ANDERSON. I agree with you completely. I wish you would do this, Mr. Palmer, if you have any additional suggestions with regard to this bill or any additional points that are at issue, that you would submit them to the committee.

We do not want you to feel that we are not interested in your opinion. We are very much interested.

Mr. PALMER. Thank you very much.

Senator MALONE. Mr. Chairman, I would like to ask Mr. Palmer a couple of questions because I think it might clear up some of the uncertainties in the testimony.

Would you for the record, Mr. Palmer, give us a statement on the coordination of the Federal and State laws as far as the location of mining claims is concerned, whether the Federal laws cover it and the area covered by State laws?

Mr. PALMER. May I call your attention to the fact, Senator, that the State of Colorado and the State of Wyoming have recently amended the location requirements?

Senator MALONE. This is important, Mr. Chairman.

Mr. PALMER. In other words, doing away with the necessity of the former requirement of a 10-foot pit or shaft. Both of those statutes have nothing to do with discovery but simply with location shafts and, under new procedure both in Colorado and Wyoming was adopted permitting other methods of discovery. These State laws were designed to do away with the criticism that bulldozers were being used across the country and ruining the grazing and forestry areas. No longer in these two States, nor in Utah for that matter, is it necessary to sink a location shaft.

I think the practice in Wyoming and Colorado will be to use other methods of discovery of minerals in place rather than digging a pit 10 feet deep; such a shaft is still required in Nevada, I believe.

Senator MALONE. That is a pit?

Mr. PALMER. That is right.

Senator MALONE. Now, you changed the law there so that the required amount of work, \$100 worth of assessment work, can be done in a different way?

Mr. PALMER. A drill hole is sufficient.

Senator MALONE. If you spend \$100 in diamond drilling, for example, you have done your work?

Mr. PALMER. And make a discovery.

Senator MALONE. That, then, is in the control of the State itself, is it?

Mr. PALMER. Well, the discovery provision is a Federal provision.

Senator MALONE. But the method of discovery?

Mr. PALMER. The method of discovery or the regulation is a matter of State requirement.

Senator MALONE. The discovery that is required by the Federal statute has nothing to do with the type of work?

Mr. PALMER. That is right.

Senator MALONE. Does it specify the amount of work?

Mr. PALMER. It simply is that the accepted definition of a discovery is a mineral in place and such quantities as will justify a reasonable person in pursuing the development of his claim.

Senator MALONE. That is now the law?

Mr. PALMER. That is the law.

Senator MALONE. The point is, then, that there is no requirement in the Federal law that any work be done at all. If you make your discovery in an exposed ledge, that is all that is necessary?

Mr. PALMER. That is right, except the annual assessment requirement of \$100 a year.

Senator MALONE. That is a Federal law?

Mr. PALMER. That is a Federal requirement.

Senator MALONE. That is what I wanted to establish for the record. How you do that \$100 worth of work is within the purview of the legislature of the State.

Senator ANDERSON. The discretion of the individual, is it not?

Mr. PALMER. The detailed requirements are generally set forth in State legislation on location. I know of no specific provisions on annual assessment work but the courts have held consistently that the work must be done in improving the property.

Senator MALONE. You say that the law has changed from a 10-foot shaft in Colorado and in Wyoming to allow the work to be done in another manner, like the diamond drilling?

Mr. PALMER. That is right; that is in the establishment of your valid location.

Senator MALONE. And could be by a bulldozer?

Mr. PALMER. It can be done by a bulldozer, yes.

Senator MALONE. In Utah, you say it is still a law that you have to have this 10-foot shaft?

Mr. PALMER. No, it has never been the law in Utah but it is the law in Nevada, I believe.

Senator MALONE. But that has not been changed?

Mr. PALMER. That has not been changed.

Senator MALONE. And you still have to have the 10-foot shaft?

Mr. PALMER. That is right.

Senator MALONE. For discovery?

Mr. PALMER. Yes.

Senator MALONE. And to do the assessment work?

Mr. PALMER. It has nothing to do with the assessment work.

Senator MALONE. Establishing the location?

Mr. PALMER. Establishing the validity of your location; that is right.

Senator MALONE. In other words, if you in Nevada discovered a ledge, outcropping, you still have to sink your 10-foot shaft?

Mr. PALMER. Senator, that is a matter of Nevada law and I am not thoroughly familiar with the court interpretation in your State, but I feel reasonably sure they would follow the same reasoning and procedure which exists in Colorado.

Senator MALONE. But it is the law?

Mr. PALMER. It is the law.

Senator MALONE. Now, as long as that is the law, that you have to have a discovery, then, if I have followed your testimony, all the departments have to do is to enforce the law?

Mr. PALMER. That is correct.

Senator MALONE. Now, I am very much interested in your testimony and your resolution there that this act, if it is passed, be confined to the forest areas.

Does your resolution confine it to the forest areas or the forest reserves?

Mr. PALMER. To the national forests, the reason for that being that the complaint we have read in the press has generally been designed to impress the public with the incorrect idea that miners are going out and making locations in forests and destroying the forest reserves of the Nation.

If that is the intent and purpose of this legislation to correct that, then why should these isolated areas such as I have mentioned in the Four Corners district in which uranium is being found be placed under this particular type of legislation?

Senator MALONE. Is it not a fact that the areas in States like my own State of Nevada are practically all isolated when you get away from the small towns and the population centers?

Mr. PALMER. That is correct.

Senator MALONE. So that what we have been trying to do over the years is to induce people to go out there and do a little digging and to acquire property; is that not right?

Mr. PALMER. That is right.

Senator MALONE. What happens when a man locates a mining claim and he has a valid location filed, keeps up his assessment work; is he subject to the county assessor waiting on him just the same as any other property?

Mr. PALMER. That is correct. In Colorado and in your State they have the right to assess and in Utah they have the right to assess unpatented mining property.

Senator MALONE. That is up to the State?

Mr. PALMER. That is up to the State.

Senator MALONE. The Federal Government does not interfere with it one way or the other?

Mr. PALMER. That is correct.

Senator MALONE. Now, the Federal Government comes in and if there is an income from the sale of this ore or the sale of the property, then the United States Government gets its share according to the law?

Mr. PALMER. That is right.

Senator MALONE. I think you covered this particular question that I had in mind but are you familiar with the fact that prominent officials in this Government, very prominent I might say, are making continual speeches up until last summer that of course we had to defend Belgium in order to get uranium from the Belgian Congo because there was no adequate amount here and that it was just assumed up until very recently that there was no adequate amount of uranium in sight; is that a fact?

Mr. PALMER. That is correct.

I call your attention to the often-cited illustration of a meeting in the Blair House, at which time it was represented that unless certain secrets were disclosed with respect to the manufacture of atomic energy, that our foreign supply of uranium would be curtailed or cut off.

Senator ANDERSON. I have no knowledge of such a meeting.

Mr. PALMER. It was attended by the two Senators from Colorado—Senators Millikin and Johnson. I understand the decision was made that the information would not be disclosed and that the program of the Atomic Energy Commission was adopted which encouraged the production of uranium in the United States and we have found substantial deposits here which many feel would make us self-sufficient in case of an emergency.

Senator ANDERSON. When was that meeting?

Mr. PALMER. Approximately 1948, I would say.

Senator MALONE. There was much publicity at the time, not of the meeting, Mr. Chairman, but evidently the result of this meeting that unless publicity throughout the country fostered by international mining publishers, and I could name a good many of the people that would make us break down and cry, that unless we disclosed these secrets they would do the same thing in uranium that they had recently done in monazite sands in India.

They thought we did not have monazite sands so in peacetime India curtailed the shipment of monazite sands, not that they needed the money but they thought they could blackmail us into another agreement. That is exactly what was attempted under this uranium setup.

Now, this committee rendered a report last August with which the chairman of this committee is fully familiar and assisted in the work, and since that time there have been no such speeches made by any prominent Government official that you had to go across an ocean to get such material. I do not believe there will be any more made because it would be very embarrassing.

I want to call attention to the fact that this publicity is carried forward for another objective, in the opinion of the Senator from Nevada, to carry out something that they want to do, having an objective, and then they use this shortage of this material as a weapon.

Many people want to buy all of the materials from the foreign nations and I guess they are going to accomplish that unless the people rise up and destroy the foundation for it, which I feel they will do in time.

One more question in that regard. The people that have really discovered these minerals and are profiting by it, are they always the experts and engineers that have found them? What kind of people are they?

MR. PALMER. No; I have stated that most of the men who have been the most successful are the inexperienced prospectors.

One man from Minneapolis found one of the most substantial deposits.

Senator MALONE. Do you think the experts in the Forest Service or the experts in the Bureau of Land Management would be qualified to determine whether a man had a valid location or not?

MR. PALMER. Well, there has to be some reasonable gage, I will admit that. I will say that even in the opinion of Mr. Woosley, the field examiners have been incorrect in some of their examinations.

Senator ANDERSON. That, however, could likewise be said about some of the people who have made examinations of oil properties?

MR. PALMER. Correct.

Senator ANDERSON. They said, "You have a good prospect here and a bad prospect there." You develop the bad prospect and get oil and the good prospect is a dud.

Senator MALONE. You are right, Mr. Chairman. For 50 years the geologists said there was no oil in a volcanic area. In Nevada we forgot it, they were experts.

I was in school when they first made that statement. Finally, in Utah some of these wildcatters got off the reservation and spent money in an area where the Bureau of Land Management would not let them locate in the first place and they hit an oil well.

We now have an oil well in the middle of Nevada and the geologists say that it is likely it will spread over a considerable area.

We are all familiar, of course, with the great worry of the Department of the Interior over a couple of decades that we were running out of oil and had to save it. Now it is running out of our ears and we do not know what to do with it, but due to the wildcatters, not the people who come out of Chicago and New York and get these nice jobs down here out of school and immediately become experts.

What is the history of mining? You have been familiar with it, Mr. Palmer, over a long period of years. When these fellows who do not know anything about it go out there and finally get it, 1 out of 5,000 of them because the rest die broke, what becomes of this prospect? Does he carry it through, or does someone with plenty of money set him up as part owner to go on and develop it, or how is it done?

MR. PALMER. The trend on the plateau at the present time is consolidation with substantial financial interests in the further exploration and development of the properties. I think that has been the history of the mining industry, generally speaking, that many the small miner under trends in world events has been pushed out of business and some more substantial people have been able to take over properties and operate them.

I think that one of the tragedies throughout the United States is the slaughter of the small miners.

In your State of Nevada, I used to attend large meetings where there would be thousands of people who were in the mining business.

In Colorado we used to have thousands of small miners before the uranium boom.

In New Mexico, when I used to address the New Mexico Mining Association, it was composed of a large number of small operators.

I would say that conditions are quite changed today.

Senator MALONE. To what do you attribute the decrease in the number of enthusiastic small prospectors, miners?

Mr. PALMER. Well, there are quite a few factors. I would say that had this committee passed a piece of legislation in which our groups was very much interested, or had the Congress passed that legislation, I think much of the difficulties which exist would have been alleviated.

I think that it has been well established that with cheap transportation from abroad by boat, with low-cost labor abroad, with the international trend that seems to prevail, that it is possible to import materials into the United States at a much lower cost than they can be produced in the United States under American standards of living.

Senator ANDERSON. Could I break in to ask you if you had reference to S. 2105 that we struggled with in this committee as one of the things that might have helped?

Mr. PALMER. I want the chairman to know that the mining people throughout the Rocky Mountain region are still deeply grateful to the chairman and the other members of the committee for the great battle you put up in behalf of that legislation.

Senator ANDERSON. We tried hard. Senator Malone and I went down together on each one of those rounds.

Senator MALONE. I want to follow just a little further.

Is the fact that we have put our miners in direct competition with these low-wage countries in the matter of the production of these minerals, has that had anything to do with the lack of young people going into this business?

Mr. PALMER. It has made the mining business, up until the incentives which were offered for uranium, very unattractive, and I think that in the event of an emergency in the United States, we are going to find a definite shortage of experienced miners.

Senator MALONE. This uranium incentive, that is a fixed price to 1962?

Mr. PALMER. Right.

Senator MALONE. I predict that after 1962, you will either have to extend the special price or guarantee for a substantial length of time or you will have to have a tariff on uranium to stay in business.

Is it not a fact for as long as I remember, which is quite a considerable length of time, that most of these prospectors and miners that are out there without capital, their chief hope is to discover something of a nature that an engineer that represents capital will come down and look at it?

Is that not the common talk which has been going around for 30 or 40 years?

Mr. PALMER. Well, I think that is correct, Senator.

Senator MALONE. Then the hope is that he will recommend that one of his clients spend a few thousand dollars to go deeper to find out whether he has anything; is that right?

Mr. PALMER. We find that \$10,000 for developing a mining claim today is insignificant as compared with a few years ago.

Senator MALONE. Well, that is true, but as long as these people can make money with discovery, if they made a lead discovery or tungsten discovery, generally a prospector had a pretty good idea how rich it

had to be to interest anyone but as long as the condition prevailed that when he discovered a deposit of a certain value per ton, they knew they would operate, would they not?

Mr. PALMER. Yes.

Senator MALONE. What is the reason they are not operating there now, that if they make the discovery they still cannot make any money?

Mr. PALMER. That is correct.

Senator MALONE. I think, Mr. Palmer, you have made a great contribution to the testimony. You are the only one, so far, with any mining experience to appear before the committee.

I say again, Mr. Chairman, that I would like very much that the importance of this legislation I have noticed over a period of years that it is not the legislation that you do not pass that hurts the country. If we could have time at the end of this session to hold hearings out through the mining country and get some evidence from people who perhaps cannot afford to come back here on their own and do not represent an association, and do not represent a Government department on an expense account, I believe this committee would be in a much better position to pass on a modification of the mining law.

I wanted to ask once more the question if you would have any particular objection to this act if it were confined to the forest reservation?

Mr. PALMER. That is the resolution of our association, that they would support the bill with that reservation.

Senator MALONE. One more. Does your association, your members, or any association that you know about, have they been flooded with information for a considerable time that they would either take some legislation like this or you would get a more restrictive act?

Mr. PALMER. Yes, I think that is the general sentiment; that was the information which has been passed on and is the explanation which has been given as to why some of the organizations which have felt that strict enforcement of the present law would answer the problem have succumbed and are endorsing this proposal.

Senator ANDERSON. Mr. Palmer, you mean in New Mexico? Have you talked in New Mexico to any miner who has that impression?

I have letters without end from down there and not one has told me that.

Mr. PALMER. That is correct.

Senator ANDERSON. Did Joe Taylor tell you that?

Mr. PALMER. No; Joe Taylor did not.

Senator ANDERSON. Can you find me one that did that I do know?

Mr. PALMER. I have a very high regard for Joe Taylor and I respect his judgment very highly.

Senator ANDERSON. You may.

Mr. PALMER. I think that it is a mistake for mining executives in eastern mining offices to make decisions on legislation as important to the average life of the average miner as this legislation is without consulting with the fellows who day after day are confronted with the problem of making valid locations.

I know there is more understanding in the mind of an executive than in the mind of the average miner. I am fully cognizant of the fact that there are pressures here which must be taken into con-

sideration by the Congress, but I would say without any fear of contradiction that if hearings were held on this proposed legislation in most of the mining camps of the West, that there would be very strong opposition to its passage.

There has been strong opposition expressed to me not only by miners but by very, very prominent geologists and mining engineers whose names I would prefer not to mention. A certain amount of leadership is required here and a certain amount of understanding which I think is being exercised by the leaders of the mining congress and others.

If this is to set a precedent, however, then I feel that in other matters, when additional legislation is introduced it would be very much worthwhile to hold hearings in the areas where the miners themselves can attend and express their feelings.

Senator MALONE. Mr. Chairman, this would be embarrassing to some people but it is not to me. I know all of these people and some of these larger organizations referred to by the secretary of the Colorado Mining Association. I have the highest regard for them. I think they are very efficiently run, they make money, they are wonderful people and maybe if I were president of one of the companies I would do just what they are doing because they are working for their stockholders. I want to say to you that legislation that does not touch those people, or if it does touch them it helps them, because any time you can make a thing more technical, make location a little harder to comply with, make it more technical, you help a going concern, large company, at the expense of the smaller fellow because this thing, this evolution, is going on all the time.

When a man that did not know anything about uranium at all went out and stuck a stake down, and there are probably 5,000 of them out there that have done the same thing but have not made any money, other than this one man who came out with \$10 million. Now, he is not too close from now on to the fellow like he was when he started because he is now doing the best he can to promote the whole setup, but he is not down there with them every day.

People that come in with the money, that an engineer represents, people that will spend \$2,000, \$5,000, \$10,000, \$50,000 to develop a prospect that a prospector has found, they are not prospectors and it is making easier for them to get this from the prospector because he does not have the money, for example, to do what someone testified to yesterday, that the large operators, they have a man on each claim out there. No prospector can do that. When he makes a new discovery he locates 7 or 8 mining claims around it and you correct me if I am wrong, Mr. Palmer, you are an attorney long experienced in this business.

You can do your assessment work on one spot if it is reasonable to suppose that you can develop the whole group.

Mr. PALMER. If it tends to improve the whole group.

Senator MALONE. In other words, you do your best to locate along the line of the vein or discovery. Maybe you are right and maybe you are wrong, but you can do it if you have 5 claims, you can do \$500 worth of work on one place if you are reasonably sure that it will develop the whole thing?

Mr. PALMER. That is right.

Senator MALONE. Those things are well established in court, as Mr. Palmer has said.

I want to say to you, Mr. Chairman, one more time. I know a lot of these people. I grew up with them. I surveyed their mining claims in their locations and in their further patents, many of them. A lot of those fellows, if they have a tobacco can in their pocket and a piece of note paper to make the location, that is a secondary consideration.

He looks around for that after he makes his discovery. He gets to his county seat and that is as far as he is going to go, or he sends somebody; that location is made. If he had to file with somebody else or if he has to answer a newspaper advertisement to come in and defend himself, he is simply not going to do it in 99 percent of the cases.

Senator ANDERSON. And of course he does not have to.

Senator MALONE. He does not have to if he does not lose some stuff under this bill.

Senator ANDERSON. Not a thing in the world.

Senator MALONE. In other words, he will lose the timber.

Senator ANDERSON. Not if he needs it for mining.

Senator MALONE. If he does not establish it at that time, he has lost it.

Senator ANDERSON. No; he does not lose it.

Senator MALONE. All right, I will read it to you again. It says that after this notice, 9 consecutive weeks of having it published, that if this man does not come in within 150 days from the date of the first publication of such notice, "which date shall be specified in such notice, a verified statement which shall set forth, as to such unpatented mining claim," and then you have 1, 2, 3, 4, 5. I have already read them into the record.

Senator ANDERSON. Yes.

Senator MALONE. If he does not do that, he is subject to these other provisions.

Senator ANDERSON. Those provisions are that he loses his claim to the surface except what is needed for mining.

Senator MALONE. That is right, but he does not know what is needed for mining until several years have passed.

Senator ANDERSON. He does not have to. This preserves him. This preserves all of his rights.

Senator MALONE. In the meantime, they can take the timber off.

Senator ANDERSON. Exactly, and that is what Senator Millikin has suggested and that is what we are going to try to correct.

Senator MALONE. I should say that there are several things we need to correct and one of them is to confine it where the damage is being done.

I have no quarrel with the Forest Service because we have 5 million acres that I hope to get reclassified sometime to put it out of the Forest Service. We will come to that some day here because it ought to be in the public land classification and should not be in the Forest Service at all; that is something we can take up later because if it is a question then of damage done to timber and it is more valuable for a forest reserve than anything else, and I hear that statement made all the time that, regardless of the mining location, if it is more valuable for something else, a miner should not be there.

I would go along with that but, Mr. Chairman, I am very reluctant to go along with a bill that digs these fellows out of the canyons and

they have to come in and make a showing and register with an outfit, with a Federal registration, that they are simply, many of them, not only incapable of making without an attorney which they could not hire, but they do not have the money to come in and do it.

Mr. Palmer, I am very appreciative that you have come before this committee. I think you have assisted in establishing a good record.

Senator ANDERSON. I am, too.

Mr. PALMER. Thank you.

Senator ANDERSON. The Western Oil & Gas Association has entered some objections to portions of this bill and has suggested some revised language.

We will check with them to find out whether they want this material made a part of this record.

(COMMITTEE NOTE.—The Western Oil & Gas Association proposals are as follows:)

WESTERN OIL & GAS ASSOCIATION,
Los Angeles, Calif., May 17, 1955.

HON. CLINTON P. ANDERSON,
Senate Committee on Interior and Insular Affairs,
Senate Office Building, Washington, D. C.

DEAR SENATOR: The public lands committee of the Western Oil & Gas Association feels some concern that S. 1713 upon which your committee will conduct hearings tomorrow, might, under some interpretations; affect the reservation of Leasing Act minerals under Public Laws 250 and 585, 83d Congress.

You will recall that legislation enacting those two public laws was passed at the suggestion of this association's committee and with a good deal of cooperative effort on the part of Messrs. R. T. Patton and J. M. Jessen, members of said committee.

Mr. Patton has sent me the attached letter in which he proposes a simple amendment to section 7 which would remove any doubt as to the intentions of the authors of S. 1713 with respect to limiting the reservation of Leasing Act minerals. He feels, with the concurrence of other members of our public lands committee, that the amendment is essential even though the authors of this legislation had no contrary intention.

Your consideration of our viewpoint will be greatly appreciated.

Due to their interest in the legislation which became Public Law 585 and Public Law 250 I am sending copies of this letter and copies of Mr. Patton's letter to Mr. Frank Barrett and Mr. Stewart French.

Sincerely yours,

FRANK W. ROGERS,
Washington Representative.

MULTIPLE SURFACE USE BILLS H. R. 5561, 5563, 5572, 5577, 5891, S. 1713

MAY 12, 1955.

MR. FRANK W. ROGERS,
Western Oil & Gas Association,
Washington 6, D. C.

DEAR FRANK: Confirming our telephone conversation of last week, we should like to submit the following amendment to these bills:

Substitute a semicolon for the period at the end of the last section (sec. 7) and add the following: "and nothing in this act shall be construed in any manner to modify, amend, supersede or repeal any of the provisions of the act of August 12, 1953 (67 Stat. 539) or the act of August 13, 1954 (68 Stat. 708)."

The purpose of the suggested amendment is to make sure that nothing in the multiple surface use legislation limits or affects the Leasing Act minerals reservation in either unpatented or patented mining claims under Public Law 250 and Public Law 585, 83d Congress, and that the provisions of section 6 of Public Law 585 will continue to control in regard to the use of the land as between mining operators and Leasing Act operators.

While I am sure the authors of the multiple surface use legislation had no contrary intention, there is some language in the bills which, read literally and alone, might raise a doubt (comments based on the corrected copy of H. R. 5577):

Section 4 (a) : "Any mining claim hereafter located under the mining laws of the United States shall not be used, *prior to issuance of patent therefor*, for any purpose other than prospecting, mining, or processing operations and uses reasonably incident thereto." [Emphasis added.]

This suggests that, conversely, the mining claimant might have carte blanche use of the lands after patent is issued, which is of course not the case under Public Law 585 in situations where the patent is issued subject to the Leasing Act minerals reservation.

Section 4 (b), second sentence: "Any such mining claim shall also be subject *prior to the issuance of patent therefor*, to the right of the United States, its permittees and licensees, to use so much of the surface thereof as may be necessary *for such purposes or for access to adjacent land*." [Emphasis added.]

Since the right of access referred to is not expressed as being solely for the purpose of disposing of vegetative and other surface resources, the underscored language suggests the possibility that the right of the United States, its permittees and licensees, to access to adjacent land for all purposes would be cut off after the issuance of patent. If so, this would seriously limit the comprehensive extralateral rights which section 4 (2) of Public Law 585 gives to the United States, its lessees, *permittees and licensees*, not only prior to the issuance of patent but also in the proper case after the issuance of patent.

The closing proviso of section 4 (b) : "*Provided, however, That any use of the surface of any such mining claim by the United States, its permittees or licensees, shall be such as not to endanger or materially interfere with prospecting, mining, or processing operations or uses reasonably incident thereto.*" [Emphasis added.]

This restriction is not confined to the use of the land for disposition of vegetative and other surface resources, but applies to "any use" of the surface by the United States, its permittees or licensees, which would include mineral Leasing Act operations. Furthermore, standing alone it would impose an absolute and unlimited noninterference requirement on Leasing Act operations, with no recognition of "first on the ground" preferential position, whereas section 6 (c) of Public Law 585 requires only noninterference with existing mining facilities and their use and also provides for adjudication of conflicting uses.

The closing proviso of section 7 : "and nothing in this act shall be construed in any manner to authorize inclusion in any patent hereafter issued under the mining laws of the United States for any mining claim heretofore or hereafter located, of any limitation or restriction not otherwise authorized by law"—

protects the mining claimant against any unauthorized limitation or restriction in his patent. However, being in the negative, this proviso could not be safely relied on to affirm and preserve all other limitations and restrictions which are authorized by law (such as those in Public Law 585) in view of the presence in the bills of the provisions discussed above.

I have taken this matter up with Mr. Mattei, who agrees that any inferences in the multiple surface-use bills which could in any way, however remote, suggest conflict with Public Laws 250 and 585 should be cured in order to avoid even the possibility of doubt or controversy. I feel that the suggested proviso at the end of section 7 is the simplest way of accomplishing the purpose and I would see no reason for any objection to it.

Your assistance will be appreciated and any views or suggestions will be welcomed.

With best regards.

Sincerely,

ROBERT T. PATTON.

Senator MALONE. Will we have any further hearings?

Senator ANDERSON. I do not contemplate any further hearings at this time. Of course, if in our consideration of the bill, the need for additional facts and views becomes apparent, then the committee will consider when and where those facts and views should be obtained. But for the present, I think the record is sufficiently complete to enable the committee to reach a determination on the measure.

Senator MALONE. In that event, Mr. Chairman, I will want to make a statement on this bill.

Senator ANDERSON. The committee will of course be glad to have your views in the printed record.

**STATEMENT OF HON. GEORGE W. MALONE, UNITED STATES
SENATOR FROM THE STATE OF NEVADA**

Senator MALONE. Mr. Chairman, the purpose of your proposed amendment to the 1872 mining law is, according to its sponsors, to prevent:

1. Clearly invalid mining locations, unsupported by any semblance of discovery, and
2. Mining locations having mineral disclosures which might satisfy the basic requirement of discovery, but which were in fact made for a purpose other than mining.
3. To make it easier for the Federal bureaus to bring up for review claims and claimants which in their judgment includes land more valuable for another purpose.

That is the statement of the principal witness, Mr. Raymond B. Holbrook, an attorney employed by the United States Smelting, Refining & Mining Co. for 17 years, and who is the chairman of the public lands committee of the American Mining Congress. Mr. Holbrook was the nearest approach to a mining man who appeared for the bill.

LEGITIMATE OBJECTIONS COVERED BY MINING LAWS AND DECISIONS

The first purpose is amply covered by the present mining law as interpreted over the years by the Supreme Court of the United States. Both the public and the prospector are fully protected, with recourse to the courts.

The second and third are clearly an imposition on the rights of the prospector since they open the door for the first time in more than 80 years for a Government bureau employee to allege that the land is more valuable for another purpose than mining and bring the case before his own bureau where the only appeal is to a higher employee or official in that same bureau.

CONGRESS COULD DESTROY INCENTIVE

Since it is even conceivable that evidence might show that the value for other purposes might temporarily be greater than the immediate value of a small mining property, it is inconceivable that the Congress would allow a bureau official, in no way connected with mining, such as the Forest Service or the Bureau of Land Management, and having no firsthand knowledge of the industry, to be the complainant, judge, and jury.

The history of mining is clear that you must have prospects before you have small mines and you must have small mines before you can have big mines—and that it often requires many years before the larger bodies of ore can be developed, even after they are known to exist.

FIRST LOCATOR SELDOM PROFITS

History also shows that the property many change hands many times through the first locators "going broke" and either relinquishing the claim to another locator or selling out for what they can get because of their inability to continue working the property, or because

of lack of "assessment" work simply losing to another locator. Rarely does the first locator profit from the discovery.

There used to be a byword in the ranching business—that it was the third or fourth homesteader of a homestead that made it stick. The mining business is even tougher.

GOVERNMENT BUREAUS

The principal witness, Mr. Holbrook, further testified that—

We have had the pleasure of working with the Forest Service and the Bureau of Land Management and understand their position is that these problems could not be entirely met by effective administration of existing laws for the following reasons:

1. The available remedies are slow, expensive, and not conclusive; and
2. There is great difficulty in establishing the invalidity of a location, supported by discovery, on the basis that the location was made for a purpose other than mining.

The weight of evidence of the witnesses called—all but one holding some Government position—was that the Government bureaus should be given the clear power to determine the validity of a mining location within their own department.

This power in the hands of the bureau officials would destroy the prospector and reverse the Supreme Court decisions for more than 80 years.

They would also have the authority to determine whether or not the land is more valuable for another purpose than mining.

OBJECTIVE—LEASING SYSTEM

It is clear that the Government bureaus are still moving toward a leasing system which they have continually advocated for two decades.

DESTROY LAW INTENT AND COURT DECISION

The prospector can be moved under the 1872 law if he has not complied with it, which is the intent and the extent of the original law.

The Supreme Court decisions, for more than 80 years, have clarified and established the law.

It has been established that if the prospector has complied with the law in setting up his monuments, in filing with the county recorder, and has done the required "assessment" work, that a Government department cannot move him or interfere with his work by alleging that "a reasonably prudent man would not expend his money and his effort in the hopes of developing a mine" (Holbrook, p. 91, May 18, 1955).

The amended act opens the door for continual interference by Government officials.

It limits the locators' inherent rights prior to patent, since when patent issues there is no change in the fee simple ownership, and the timber, forage, and all other assets go to the patentee. It does not make sense to allow the Government to deplete his claim in accordance with their judgment before patent.

There may have been abuses under the law, but when investigated it will generally be found that the Government has not met its responsibilities under existing law and that the law itself or court decisions provide the remedy.

PROSPECTOR ON THE DEFENSIVE

As it now stands, the Government must initiate any proceedings to prove the location invalid, which is exactly what was intended and must be maintained, under the proposed law the prospector will be on the defensive and will be continually harried and tormented by inexperienced and irresponsible Bureau officials.

HEARINGS IN MINING AREAS

It is abundantly clear that hearings should be held in the mining areas of this Nation before any action is taken, since no real miners were heard and the mining associations of the several States were clearly intimidated through threats of more severe legislation unless they accepted the proposed legislation as written.

LAST STAND OF SMALL CAPITAL

The present simple location system for acquiring prospecting ground for mining is the last stand for the man of small capital.

It requires no money, just a sack of beans and some coffee and many of them have been known to dispense with the coffee until they can show enough to acquire a grubstake from someone who is willing to gamble with them.

They can build a rock mound or stick up a stake and lodge the location notice on it, then set up the corners within 30 days and start the location work.

The ground is then his own as long as he does the required annual assessment work and files proof of it in the country recorder's office of his county.

It is not necessary to have a surveyor or an accurate placing of the corners of his property. If he inadvertently takes in too much territory then, when there is a conflict, which there will most certainly be when and if he makes a strike, he can only hold the 1,500 by 600 feet of the regulation mining claim.

MINING IS A GAMBLE—NO PRUDENT MAN

Mining is a gamble. It is also a disease, which once acquired means that they will "hit" a mine or die broke. Where a very limited few develop a mine, thousands die broke, but it is the incentive of "striking it rich" that keeps them in the hills where the ore is to be found.

Probably 90 percent of the digging done by prospectors is on ground where no "prudent man" would dig—and this Nation can thank God that they have continued to dig on such ground, because most of the prospects developing into mines are discovered by these miners confirmed in the faith.

The testimony by Government witness, and witnesses inexperienced in the actual prospecting operation, was to the effect that many mining claims are located on ground where no "prudent man" would dig. Prospectors are not prudent men.

ONLY ONE MINING MAN HEARD

There was only one mining man at the hearing who testified and his testimony was emphatically against the bill unless modified, and he recommended that hearings be held in the mining areas before it was reported to the Senate floor. The witness was Mr. Robert S. Palmer, secretary-treasurer of the Colorado Mining Association, which is one of the largest and most important of such associations in this Nation.

NO PRECEDENT

Several witnesses have testified that a precedent for this proposed legislation was set in the passage of Public Law No. 250, 83d Congress, amending the 1872 Mining Act.

There could have been no precedent set in the previous legislation for this type of bill since it only dealt with coordinating the use of the same mining claims for different minerals—petroleum, uranium, and other minerals. The amended act provided that you could mine uranium on an oil claim but the petroleum producer had the priority and you could not interfere with him, and that you could develop and produce oil on a uranium claim but that you could not interfere with the operation of the prior locator.

PRECEDENT WOULD BE SET

It positively had nothing to do with timber or forage or sagebrush. It had absolutely nothing in common with Senate bill 1713, which does set a precedent for leasing ground for materials.

HEARINGS IN MINING AREAS

Certainly hearings should be held in the mining areas. Let the miners have a chance to help work it out.

CAN BE WORKED OUT

I believe that if this is done a satisfactory piece of legislation can be worked out that will benefit all concerned, and that will not curb the prospector, and that will not discourage independent investors and grubstakers interested in locating, developing, and producing minerals.

SHOULD BE CONFINED TO FOREST AREAS

If the legislation is to be voted on today as set up without hearings in the mining areas of the country, then its application should certainly be confined to the forest reserve areas where most of the testimony before the committee applied.

Senator ANDERSON. Thank you. The committee hearing will now stand in recess.

(Whereupon, at 2:10 p. m., the committee recessed subject to the call of the Chair.)

84TH CONGRESS
1ST SESSION

H. R. 5561

IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 1955

Mr. DAWSON of Utah introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To amend the Act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 1 of the Act of July 31, 1947 (61 Stat. 681),
4 is amended to read as follows:

5 “SECTION 1. The Secretary, under such rules and regu-
6 lations as he may prescribe, may dispose of mineral mate-
7 rials (including but not limited to, sand, stone, gravel,
8 pumice, pumicite, cinders, and clay) and vegetative mate-
9 rials (including but not limited to yucca, manzanita, mes-

1 quite, cactus, and timber or other forest products) on public
2 lands of the United States, if the disposal of such mineral
3 or vegetative materials (1) is not otherwise expressly au-
4 thorized by law, including the United States mining laws,
5 and (2) is not expressly prohibited by laws of the United
6 States, and (3) would not be detrimental to the public
7 interest. Such materials may be disposed of only in accord-
8 ance with the provisions of this Act and upon the payment
9 of adequate compensation therefor, to be determined by the
10 Secretary: *Provided, however,* That, to the extent not other-
11 wise authorized by law, the Secretary is authorized in his
12 discretion to permit any Federal, State, or Territorial agency,
13 unit or subdivision, including municipalities, or any person,
14 or any association or corporation not organized for profit,
15 to take and remove, without charge, materials and resources
16 subject to this Act, for use other than for commercial or
17 industrial purposes or resale. Where the lands have been
18 withdrawn in aid of a function of a Federal department
19 or agency other than the department headed by the Secre-
20 tary or of a State, Territory, county, municipality, water
21 district, or other local governmental subdivision or agency,
22 the Secretary may make disposals under this Act only with
23 the consent of such other Federal department or agency or
24 of such State, Territory, or local governmental unit. Noth-
25 ing in this Act shall be construed to apply to lands in any

1 national park, or national monument or to any Indian lands,
2 or lands set aside or held for the use or benefit of Indians,
3 including lands over which jurisdiction has been transferred
4 to the Department of the Interior by Executive order for
5 the use of Indians. As used in this Act, the word "Secre-
6 tary" means the Secretary of the Interior except that it
7 means the Secretary of Agriculture where the lands in-
8 volved are administered by him for national forest purposes
9 or for the purposes of title III of the Bankhead-Jones Farm
10 Tenant Act or where withdrawn for the purpose of any other
11 function of the Department of Agriculture."

12 SEC. 2. That section 3 of the Act of July 31, 1947 (61
13 Stat. 681), as amended by the Act of August 31, 1950 (64
14 Stat. 571), is amended to read as follows:

15 "All moneys received from the disposal of materials
16 under this Act shall be disposed of in the same manner as
17 moneys received from the sale of public lands, except that
18 moneys received from the disposal of materials by the Secre-
19 tary of Agriculture shall be disposed of in the same manner
20 as other moneys received by the Department of Agriculture
21 from the administration of the lands from which the disposal
22 of materials is made, and except that moneys received from
23 the disposal of materials from school section lands in Alaska,
24 reserved under section 1 of the Act of March 4, 1915 (38
25 Stat. 1214), shall be set apart as separate and permanent

1 funds in the Territorial Treasury, as provided for income
2 derived from said school section lands pursuant to said Act.”

3 SEC. 3. A deposit of common varieties of sand, stone,
4 gravel, pumice, pumicite, or cinders shall not be deemed a
5 valuable mineral deposit within the meaning of the mining
6 laws of the United States so as to give effective validity to
7 any mining claim hereafter located under such mining laws:
8 *Provided, however,* That nothing herein shall affect the valid-
9 ity of any mining location based upon discovery of some other
10 mineral occurring in or in association with such a deposit.
11 “Common varieties” as used in this Act does not include
12 deposits of such materials which are valuable because the
13 deposit has some property giving it distinct and special value
14 and does not include so-called “block pumice” which occurs
15 in nature in pieces having one dimension of two inches or
16 more.

17 SEC. 4. (a) Any mining claim hereafter located under
18 the mining laws of the United States shall not be used, prior
19 to issuance of patent therefor, for any purposes other than
20 prospecting, mining or processing operations and uses reason-
21 ably incident thereto.

22 (b) Rights under any mining claim hereafter located
23 under the mining laws of the United States shall be subject,
24 prior to issuance of patent therefor, to the right of the United
25 States to manage and dispose of the vegetative surface re-

1 sources thereof and to manage other surface resources there-
2 of (except mineral deposits subject to location under the
3 mining laws of the United States). Any such mining claim
4 shall also be subject, prior to issuance of patent therefor, to
5 the right of the United States, its permittees and licensees,
6 to use so much of the surface thereof as may be necessary for
7 such purposes or for access to adjacent land: *Provided, how-*
8 *ever,* That any use of the surface of any such mining claim by
9 the United States, its permittees or licensees, shall be such as
10 not to endanger or materially interfere with prospecting,
11 mining or processing operations or uses reasonably incident
12 thereto.

13 (c) Except to the extent required for the mining claim-
14 ant's prospecting, mining or processing operations and uses
15 reasonably incident thereto, or for the construction of build-
16 ings or structures in connection therewith, or to provide
17 clearance for such operations or uses, or to the extent author-
18 ized by the United States, no claimant of any mining claim
19 hereafter located under the mining laws of the United States
20 shall, prior to issuance of patent therefor, sever, remove, or
21 use any vegetative or other surface resources thereof which
22 are subject to management or disposition by the United
23 States under the preceding subsection (b). Any severance
24 or removal of timber which is permitted under the exceptions
25 of the preceding sentence, other than severance or removal

1 to provide clearance, shall be in accordance with sound prin-
2 ciples of forest management.

3 SEC. 5. (a) The Secretary of the Federal Department
4 which has the responsibility for administering surface re-
5 sources of any lands belonging to the United States may file
6 as to such lands in the office of the Secretary of the Interior,
7 or in such office as the Secretary of the Interior may desig-
8 nate, a request for publication of notice to mining claimants,
9 for determination of surface rights, which request shall con-
10 tain a description of the lands covered thereby, showing the
11 section or sections of the public land surveys which embrace
12 the lands covered by such request, or if such lands are un-
13 surveyed, either the section or sections which would proba-
14 bly embrace such lands when the public land surveys are
15 extended to such lands or a tie by courses and distances to
16 an approved United States mineral monument.

17 The filing of such request for publication shall be accom-
18 panied by an affidavit or affidavits of a person or persons
19 over twenty-one years of age setting forth that the affiant or
20 affiants have examined the lands involved in a reasonable
21 effort to ascertain whether any person or persons were in
22 actual possession of or engaged in the working of such lands
23 or any part thereof, and, if no person or persons were found
24 to be in actual possession of or engaged in the working of
25 said lands or any part thereof on the date of such examina-

1 tion, setting forth such fact, or, if any person or persons
2 were so found to be in actual possession or engaged in such
3 working on the date of such examination, setting forth the
4 name and address of each such person, unless affiant shall
5 have been unable through reasonable inquiry to obtain in-
6 formation as to the name and address of any such person,
7 in which event the affidavit shall set forth fully the nature
8 and results of such inquiry.

9 The filing of such request for publication shall also be
10 accompanied by the certificate of a title or abstract com-
11 pany, or of a title abstractor, or of an attorney, based upon
12 such company's, abstractor's, or attorney's examination of
13 those instruments which are shown by the tract indexes in
14 the county office of record as affecting the lands described
15 in said request, setting forth the name of any person dis-
16 closed by said instruments to have an interest in said lands
17 under any unpatented mining claim heretofore located, to-
18 gether with the address of such person if such address is
19 disclosed by such instruments of record. "Tract indexes" as
20 used herein shall mean those indexes, if any, as to surveyed
21 lands identifying instruments as affecting a particular legal
22 subdivision of the public land surveys, and as to unsurveyed
23 lands identifying instruments as affecting a particular prob-
24 able legal subdivision according to a projected extension of
25 the public land surveys.

1 Thereupon the Secretary of the Interior, at the expense
2 of the requesting department or agency, shall cause notice
3 to mining claimants to be published in a newspaper having
4 general circulation in the county in which the lands involved
5 are situate.

6 Such notice shall describe the lands covered by such
7 request, as provided heretofore, and shall notify whomever
8 it may concern that if any person claiming or asserting
9 under, or by virtue of, any unpatented mining claim here-
10 tofore located, rights as to such lands or any part thereof,
11 shall fail to file in the office where such request for pub-
12 lication was filed (which office shall be specified in such
13 notice) and within one hundred and fifty days from the date
14 of the first publication of such notice (which date shall be
15 specified in such notice), a verified statement which shall
16 set forth, as to such unpatented mining claim—

17 (1) the date of location;

18 (2) the book and page of recordation of the notice
19 or certificate of location;

20 (3) the section or sections of the public land sur-
21 veys which embrace such mining claim; or if such lands
22 are unsurveyed, either the section or sections which
23 would probably embrace such mining claim when the
24 public land surveys are extended to such lands or a tie

by courses and distances to an approved United States mineral monument;

(4) whether such claimant is a locator or purchaser under such location; and

(5) the name and address of such claimant and names and addresses so far as known to the claimant of any other person or persons claiming any interest or interests in or under such unpatented mining claim;

such failure shall be conclusively deemed (i) to constitute a waiver and relinquishment by such mining claimant of any right, title, or interest under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, and (ii) to constitute a consent by such mining claimant that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, and (iii) to preclude thereafter, prior to issuance of patent, any assertion by such mining claimant of any right or title to or interest in or under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims.

If such notice is published in a daily paper, it shall be

1 published in the Wednesday issue for nine consecutive weeks,
2 or, if in a weekly paper, in nine consecutive issues, or if in
3 a semiweekly or triweekly paper, in the issue of the same
4 day of each week for nine consecutive weeks.

5 Within fifteen days after the date of first publication of
6 such notice, the department or agency requesting such pub-
7 lication (1) shall cause a copy of such notice to be person-
8 ally delivered to or to be mailed by registered mail addressed
9 to each person in possession or engaged in the working of
10 the land whose name and address is shown by an affidavit
11 filed as aforesaid, and to each person who may have filed,
12 as to any lands described in said notice, a request for notices,
13 as provided in subsection (d) of this section 5, and shall
14 cause a copy of such notice to be mailed by registered mail to
15 each person whose name and address is set forth in the title
16 or abstract company's or title abstractor's or attorney's certifi-
17 cate filed as aforesaid, as having an interest in the lands
18 described in said notice under any unpatented mining claim
19 heretofore located, such notice to be directed to such person's
20 address as set forth in such certificate; and (2) shall file in
21 the office where said request for publication was filed an
22 affidavit showing that copies have been so delivered or
23 mailed.

24 (b) If any claimant under any unpatented mining claim
25 heretofore located which embraces any of the lands described

1 in any notice published in accordance with the provisions of
2 subsection (a) of this section 5, shall fail to file a verified
3 statement, as above provided, within one hundred and fifty
4 days from the date of the first publication of such notice, such
5 failure shall be conclusively deemed, except as otherwise
6 provided in subsection (e) of this section 5, (i) to constitute
7 a waiver and relinquishment by such mining claimant of any
8 right, title, or interest under such mining claim contrary to
9 or in conflict with the limitations or restrictions specified in
10 section 4 of this Act as to hereafter located unpatented
11 mining claims, and (ii) to constitute a consent by such
12 mining claimant that such mining claim, prior to issuance of
13 patent therefor, shall be subject to the limitations and restric-
14 tions specified in section 4 of this Act as to hereafter located
15 unpatented mining claims, and (iii) to preclude thereafter,
16 prior to issuance of patent, any assertion by such mining
17 claimant of any right or title to or interest in or under such
18 mining claim contrary to or in conflict with the limitations or
19 restrictions specified in section 4 of this Act as to hereafter
20 located unpatented mining claims.

21 (c) If any verified statement shall be filed by a mining
22 claimant as provided in subsection (a) of this section 5,
23 then the Secretary of the Interior shall fix a time and place
24 for a hearing to determine the validity and effectiveness of
25 any right or title to, or interest in or under such mining

1 claim, which the mining claimant may assert contrary to
2 or in conflict with the limitations and restrictions specified
3 in section 4 of this Act as to hereafter located unpatented
4 mining claims, which place of hearing shall be in the county
5 where the lands in question or parts thereof are located,
6 unless the mining claimant agrees otherwise. Where veri-
7 fied statements are filed asserting rights to an aggregate of
8 more than twenty mining claims, any single hearing shall
9 be limited to a maximum of twenty mining claims unless
10 the parties affected shall otherwise stipulate and as many
11 separate hearings shall be set as shall be necessary to comply
12 with this provision. The procedures with respect to notice
13 of such a hearing and the conduct thereof, and in respect
14 to appeals shall follow the then established general pro-
15 cedures and rules of practice of the Department of the In-
16 terior in respect to contests or protests affecting public lands
17 of the United States. If, pursuant to such a hearing the
18 final decision rendered in the matter shall affirm the validity
19 and effectiveness of any mining claimant's so asserted right
20 or interest under the mining claim, then no subsequent pro-
21 ceedings under this section 5 of this Act shall have any force
22 or effect upon the so-affirmed right or interest of such mining
23 claimant under such mining claim. If at any time prior to
24 a hearing the department or agency requesting publication
25 of notice and any person filing a verified statement pursuant

1 to such notice shall so stipulate, then to the extent so stipu-
2 lated, but only to such extent, no hearing shall be held with
3 respect to rights asserted under that verified statement, and
4 to the extent defined by the stipulation the rights asserted
5 under that verified statement shall be deemed to be un-
6 affected by that particular published notice.

7 (d) Any person claiming any right under or by virtue
8 of any unpatented mining claim heretofore located and desir-
9 ing to receive a copy of any notice to mining claimants
10 which may be published as above provided in subsection (a)
11 of this section 5, and which may affect lands embraced in
12 such mining claim, may cause to be filed for record in the
13 county office of record where the notice or certificate of loca-
14 tion of such mining claim shall have been recorded, a duly
15 acknowledged request for a copy of any such notice. Such
16 request for copies shall set forth the name and address of the
17 person requesting copies and shall also set forth, as to each
18 heretofore located unpatented mining claim under which
19 such person asserts rights—

20 (1) the date of location;

21 (2) the book and page of the recordation of the
22 notice or certificate of location; and

23 (3) the section or sections of the public land sur-
24 veys which embrace such mining claim; or if such lands
25 are unsurveyed, either the section or sections which

1 would probably embrace such mining claim when the
2 public land surveys are extended to such lands or a
3 tie by courses and distances to an approved United
4 States mineral monument.

5 Other than in respect to the requirements of subsection (a)
6 of this section 5 as to personal delivery or mailing of copies
7 of notices and in respect to the provisions of subsection (e)
8 of this section 5, no such request for copies of published
9 notices and no statement or allegation in such request and no
10 recordation thereof shall affect title to any mining claim or
11 to any land or be deemed to constitute constructive notice
12 to any person that the person requesting copies has, or
13 claims, any right, title, or interest in or under any mining
14 claim referred to in such request.

15 (e) If any department or agency requesting publica-
16 tion shall fail to comply with the requirements of subsection
17 (a) of this section 5 as to the personal delivery or mailing
18 of a copy of notice to any person, the publication of such
19 notice shall be deemed wholly ineffectual as to that person
20 or as to the rights asserted by that person and the failure
21 of that person to file a verified statement, as provided in such
22 notice, shall in no manner affect, diminish, prejudice or bar
23 any rights of that person.

24 SEC. 6. The owner or owners of any unpatented mining

1 claim heretofore located may waive and relinquish all rights
2 thereunder which are contrary to or in conflict with the limi-
3 tations or restrictions specified in section 4 of this Act as to
4 hereafter located unpatented mining claims. The execution
5 and acknowledgment of such a waiver and relinquishment
6 by such owner or owners and the recordation thereof in the
7 office where the notice or certificate of location of such min-
8 ing claim is of record shall render such mining claim there-
9 after and prior to issuance of patent subject to the limitations
10 and restrictions in section 4 of this Act in all respects as if
11 said mining claim had been located after enactment of this
12 Act, but no such waiver or relinquishment shall be deemed
13 in any manner to constitute any concession as to the date of
14 priority of rights under said mining claim or as to the validity
15 thereof.

16 SEC. 7. Nothing in this Act shall be construed in any
17 manner to limit or restrict or to authorize the limitation or
18 restriction of any existing rights of any claimant under any
19 valid mining claim heretofore located, except as such rights
20 may be limited or restricted as a result of a proceeding pur-
21 suant to section 5 of this Act, or as a result of a waiver and
22 relinquishment pursuant to section 6 of this Act; and nothing
23 in this Act shall be construed in any manner to authorize
24 inclusion in any patent hereafter issued under the mining

A BILL

To amend the Act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of public lands, and for other purposes.

By Mr. Dawson of Utah

APRIL 14, 1955

Referred to the Committee on Interior and Insular
Affairs

1 laws of the United States for any mining claim heretofore
2 or hereafter located, of any limitation or restriction not
3 otherwise authorized by law.

84TH CONGRESS
1ST SESSION

H. R. 5577

IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 1955

Mr. ELLSWORTH introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To amend the Act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 1 of the Act of July 31, 1947 (61 Stat. 681),
4 is amended to read as follows:

5 “SECTION 1. The Secretary, under such rules and regu-
6 lations as he may prescribe, may dispose of mineral materials
7 (including, but not limited to, sand, stone, gravel, pumice,
8 pumicite, cinders, and clay) and vegetative materials (in-
9 cluding, but not limited to, yucca, manzanita, mesquite,
10 cactus, and timber or other forest products) on public lands

1 of the United States, if the disposal of such mineral or
2 vegetative materials (1) is not otherwise expressly author-
3 ized by law, including the United States mining laws, and
4 (2) is not expressly prohibited by laws of the United States,
5 and (3) would not be detrimental to the public interest.
6 Such materials may be disposed of only in accordance with
7 the provisions of this Act and upon the payment of adequate
8 compensation therefor, to be determined by the Secretary:
9 *Provided, however,* That, to the extent not otherwise author-
10 ized by law, the Secretary is authorized in his discretion to
11 permit any Federal, State, or Territorial agency, unit or sub-
12 division, including municipalities, or any person, or any
13 association or corporation not organized for profit, to take
14 and remove, without charge, materials and resources subject
15 to this Act, for use other than for commercial or industrial
16 purposes or resale. Where the lands have been withdrawn
17 in aid of a function of a Federal department or agency
18 other than the Department headed by the Secretary or of
19 a State, Territory, county, municipality, water district, or
20 other local governmental subdivision or agency, the Secretary
21 may make disposals under this Act only with the consent
22 of such other Federal department or agency or of such
23 State, Territory, or local governmental unit. Nothing in
24 this Act shall be construed to apply to lands in any national
25 park, or national monument, or to any Indian lands, or lands

1 set aside or held for the use or benefit of Indians, including
2 lands over which jurisdiction has been transferred to the
3 Department of the Interior by Executive order for the use
4 of Indians or to lands described in the Act of August 28,
5 1937 (50 Stat. 874), or in Public Law 426, Eighty-third
6 Congress. As used in this Act, the word 'Secretary' means
7 the Secretary of the Interior except that it means the Secre-
8 tary of Agriculture where the lands involved are admin-
9 istered by him for national forest purposes or for the pur-
10 poses of title III of the Bankhead-Jones Farm Tenant Act
11 or where withdrawn for the purpose of any other function
12 of the Department of Agriculture."

13 SEC. 2. That section 3 of the Act of July 31, 1947
14 (61 Stat. 681), as amended by the Act of August 31,
15 1950 (64 Stat. 571), is amended to read as follows:

16 "All moneys received from the disposal of materials
17 under this Act shall be disposed of in the same manner as
18 moneys received from the sale of public lands, except that
19 moneys received from the disposal of materials by the Secre-
20 tary of Agriculture shall be disposed of in the same manner
21 as other moneys received by the Department of Agriculture
22 from the administration of the lands from which the disposal
23 of materials is made, and except that moneys received from
24 the disposal of materials from school section lands in Alaska,
25 reserved under section 1 of the Act of March 4, 1915 (38

1 Stat. 1214), shall be set apart as separate and permanent
2 funds in the Territorial Treasury, as provided for income
3 derived from said school section lands pursuant to said Act.”

4 SEC. 3. A deposit of common varieties of sand, stone,
5 gravel, pumice, pumicite, or cinders shall not be deemed a
6 valuable mineral deposit within the meaning of the mining
7 laws of the United States so as to give effective validity to
8 any mining claim hereafter located under such mining laws:
9 *Provided, however,* That nothing herein shall affect the valid-
10 ity of any mining location based upon discovery of some
11 other mineral occurring in or in association with such a
12 deposit. “Common varieties” as used in this Act does not
13 include deposits of such materials which are valuable be-
14 cause the deposit has some property giving it distinct and
15 special value and does not include so-called “block pumice”
16 which occurs in nature in pieces having one dimension of
17 two inches or more.

18 SEC. 4. (a) Any mining claim hereafter located under
19 the mining laws of the United States shall not be used, prior
20 to issuance of patent therefor, for any purposes other than
21 prospecting, mining or processing operations and uses reason-
22 ably incident thereto.

23 (b) Rights under any mining claim hereafter located
24 under the mining laws of the United States shall be subject,
25 prior to issuance of patent therefor, to the right of the United

1 States to manage and dispose of the vegetative surface re-
2 sources thereof and to manage other surface resources
3 thereof (except mineral deposits subject to location under
4 the mining laws of the United States). Any such mining
5 claim shall also be subject, prior to the issuance of patent
6 therefor, to the right of the United States, its permittees and
7 licensees, to use so much of the surface thereof as may be
8 necessary for such purposes or for access to adjacent land:
9 *Provided however,* That any use of the surface of any such
10 mining claim by the United States, its permittees or licensees,
11 shall be such as not to endanger or materially interfere with
12 prospecting, mining, or processing operations or uses rea-
13 sonably incident thereto.

14 (c) Except to the extent required for the mining claim-
15 ant's prospecting, mining or processing operations and uses
16 reasonably incident thereto, or for the construction of build-
17 ings or structures in connection therewith, or to provide
18 clearance for such operations or uses, or to the extent au-
19 thorized by the United States, no claimant of any mining
20 claim hereafter located under the mining laws of the United
21 States shall, prior to issuance of patent therefor, sever, re-
22 move, or use any vegetative or other surface resources
23 thereof which are subject to management or disposition by
24 the United States under the preceding subsection (b). Any
25 severance or removal of timber which is permitted under the

1 exceptions of the preceding sentence, other than severance
2 or removal to provide clearance, shall be in accordance with
3 sound principles of forest management.

4 SEC. 5. (a) The Secretary of the Federal department
5 which has the responsibility for administering surface re-
6 sources of any lands belonging to the United States may file
7 as to such lands in the office of the Secretary of the Interior,
8 or in such office as the Secretary of the Interior may desig-
9 nate, a request for publication of notice to mining claimants,
10 for determination of surface rights, which request shall con-
11 tain a description of the lands covered thereby, showing the
12 section or sections of the public land surveys which embrace
13 the lands covered by such request, or if such lands are
14 unsurveyed, either the section or sections which would prob-
15 ably embrace such lands when the public land surveys are
16 extended to such lands or a tie by courses and distances
17 to an approved United States mineral monument.

18 The filing of such request for publication shall be accom-
19 panied by an affidavit or affidavits of a person or persons
20 over twenty-one years of age setting forth that the affiant
21 or affiants have examined the lands involved in a reasonable
22 effort to ascertain whether any person or persons were in
23 actual possession of or engaged in the working of such lands
24 or any part thereof, and, if no person or persons were found

1 to be in actual possession of or engaged in the working of
2 said lands or any part thereof on the date of such examina-
3 tion, setting forth such fact, or, if any person or persons were
4 so found to be in actual possession or engaged in such work-
5 ing on the date of such examination, setting forth the name
6 and address of each such person, unless affiant shall have
7 been unable through reasonable inquiry to obtain informa-
8 tion as to the name and address of any such person, in
9 which event the affidavit shall set forth fully the nature and
10 results of such inquiry.

11 The filing of such request for publication shall also be
12 accompanied by the certificate of a title or abstract company,
13 or of a title abstractor, or of an attorney, based upon such
14 company's, abstractor's, or attorney's examination of those
15 instruments which are shown by the tract indexes in the
16 county office of record as affecting the lands described in said
17 request, setting forth the name of any person disclosed by
18 said instruments to have an interest in said lands under any
19 unpatented mining claim heretofore located, together with
20 the address of such person if such address is disclosed by such
21 instruments of record. "Tract Indexes" as used herein shall
22 mean those indexes, if any, as to surveyed lands identifying
23 instruments as affecting a particular legal subdivision of the
24 public land surveys, and as to unsurveyed lands identifying

1 instruments as affecting a particular probable legal subdivi-
2 sion according to a projected extension of the public land
3 surveys.

4 Thereupon the Secretary of the Interior, at the expense
5 of the requesting department or agency, shall cause notice
6 to mining claimants to be published in a newspaper having
7 general circulation in the county in which the lands involved
8 are situate.

9 Such notice shall describe the lands covered by such
10 request, as provided heretofore, and shall notify whomever it
11 may concern that if any person claiming or asserting under,
12 or by virtue of, any unpatented mining claim heretofore
13 located, rights as to such lands or any part thereof, shall fail
14 to file in the office where such request for publication was
15 filed (which office shall be specified in such notice) and
16 within one hundred fifty days from the date of the first publi-
17 cation of such notice (which date shall be specified in such
18 notice), a verified statement which shall set forth, as to such
19 unpatented mining claim:

20 (1) The date of location;

21 (2) The book and page of recordation of the notice
22 or certificate of location;

23 (3) The section or sections of the public land sur-
24 veys which embrace such mining claim; or, if such lands
25 are unsurveyed, either the section or sections which

would probably embrace such mining claim when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument;

(4) Whether such claimant is a locator or purchaser under such location; and

(5) The name and address of such claimant and names and addresses so far as known to the claimant of any other person or persons claiming any interest or interests in or under such unpatented mining claim;

such failure shall be conclusively deemed (i) to constitute a waiver and relinquishment by such mining claimant of any right, title, or interest under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, and (ii) to constitute a consent by such mining claimant that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, and (iii) to preclude thereafter, prior to issuance of patent, any assertion by such mining claimant of any right or title to or interest in or under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims.

1 If such notice is published in a daily paper, it shall be
2 published in the Wednesday issue for nine consecutive weeks,
3 or, if in a weekly paper, in nine consecutive issues, or if
4 in a semiweekly or triweekly paper, in the issue of the same
5 day of each week for nine consecutive weeks.

6 Within fifteen days after the date of first publication
7 of such notice, the department or agency requesting such
8 publication (1) shall cause a copy of such notice to be per-
9 sonally delivered to or to be mailed by registered mail
10 addressed to each person in possession or engaged in the
11 working of the land whose name and address is shown by
12 an affidavit filed as aforesaid, and to each person who may
13 have filed, as to any lands described in said notice, a request
14 for notices, as provided in subsection (d) of this section
15 5, and shall cause a copy of such notice to be mailed by
16 registered mail to each person whose name and address is
17 set forth in the title or abstract company's or title abstrac-
18 tor's or attorney's certificate filed as aforesaid, as having
19 an interest in the lands described in said notice under any
20 unpatented mining claim heretofore located, such notice to
21 be directed to such person's address as set forth in such cer-
22 tificate; and (2) shall file in the office where said request
23 for publication was filed an affidavit showing that copies
24 have been so delivered or mailed.

25 (b) If any claimants under any unpatented mining

1 claim heretofore located which embraces any of the lands
2 described in any notice published in accordance with the
3 provisions of subsection (a) of this section 5, shall fail to
4 file a verified statement, as above provided, within one
5 hundred and fifty days from the date of the first publication
6 of such notice, such failure shall be conclusively deemed,
7 except as otherwise provided in subsection (e) of this sec-
8 tion 5, (i) to constitute a waiver and relinquishment by
9 such mining claimant of any right, title, or interest under
10 such mining claim contrary to or in conflict with the limi-
11 tations or restrictions specified in section 4 of this Act as
12 to hereafter located unpatented mining claims, and (ii) to
13 constitute a consent by such mining claimant that such mining
14 claim, prior to issuance of patent therefor, shall be subject
15 to the limitations and restrictions specified in section 4 of
16 this Act as to hereafter located unpatented mining claims,
17 and (iii) to preclude thereafter, prior to issuance of patent,
18 any assertion by such mining claimant of any right or title
19 to or interest in or under such mining claim contrary to or
20 in conflict with the limitations or restrictions specified in
21 section 4 of this Act as to hereafter located unpatented mining
22 claims.

23 (c) If any verified statement shall be filed by a mining
24 claimant as provided in subsection (a) of this section 5,
25 then the Secretary of the Interior shall fix a time and place

1 for a hearing to determine the validity and effectiveness of
2 any right or title to, or interest in or under such mining
3 claim, which the mining claimant may assert contrary to
4 or in conflict with the limitations and restrictions specified
5 in section 4 of this Act as to hereafter located unpatented
6 mining claims, which place of hearing shall be in the county
7 where the lands in question or parts thereof are located,
8 unless the mining claimant agrees otherwise. Where verified
9 statements are filed asserting rights to an aggregate of more
10 than twenty mining claims, any single hearing shall be
11 limited to a maximum of twenty mining claims unless the
12 parties affected shall otherwise stipulate and as many separate
13 hearings shall be set as shall be necessary to comply with
14 this provision. The procedures with respect to notice of such
15 a hearing and the conduct thereof, and in respect to appeals
16 shall follow the then established general procedures and rules
17 of practice of the Department of the Interior in respect to
18 contests or protests affecting public lands of the United States.
19 If, pursuant to such a hearing the final decision rendered in
20 the matter shall affirm the validity and effectiveness of any
21 mining claimant's so asserted right or interest under the
22 mining claim, then no subsequent proceedings under this
23 section 5 of this Act shall have any force or effect upon the
24 so-affirmed right or interest of such mining claimant under
25 such mining claim. If at any time prior to a hearing the

1 department or agency requesting publication of notice and
2 any person filing a verified statement pursuant to such notice
3 shall so stipulate, then to the extent so stipulated, but only
4 to such extent, no hearing shall be held with respect to
5 rights asserted under that verified statement, and to the
6 extent defined by the stipulation the rights asserted under
7 that verified statement shall be deemed to be unaffected by
8 that particular published notice.

9 (d) Any person claiming any right under or by virtue
10 of any unpatented mining claim heretofore located and de-
11 siring to receive a copy of any notice to mining claimants
12 which may be published as above provided in subsection (a)
13 of this section 5, and which may affect lands embraced in
14 such mining claim, may cause to be filed for record in the
15 county office of record where the notice or certificate of
16 location of such mining claim shall have been recorded, a
17 duly acknowledged request for a copy of any such notice.
18 Such request for copies shall set forth the name and address
19 of the person requesting copies and shall also set forth, as to
20 each heretofore located unpatented mining claim under which
21 such person asserts rights—

22 (1) the date of location;

23 (2) the book and page of the recordation of the
24 notice or certificate of location; and

25 (3) the section or sections of the public land sur-

veys which embrace such mining claim; or if such lands are unsurveyed, either the section or sections which would probably embrace such mining claim when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument.

Other than in respect to the requirements of subsection (a) of this section 5 as to personal delivery or mailing of copies of notices and in respect to the provisions of subsection (e) of this section 5, no such request for copies of published notices and no statement or allegation in such request and no recordation thereof shall affect title to any mining claim or to any land or be deemed to constitute constructive notice to any person that the person requesting copies has, or claims, any right, title, or interest in or under any mining claim referred to in such request.

(e) If any department or agency requesting publication shall fail to comply with the requirements of subsection (a) of this section 5 as to the personal delivery or mailing of a copy of notice to any person, the publication of such notice shall be deemed wholly ineffectual as to that person or as to the rights asserted by that person and the failure of that person to file a verified statement, as provided in such notice, shall in no manner affect, diminish, prejudice, or bar any rights of that person.

1 SEC. 6. The owner or owners of any unpatented mining
2 claim heretofore located may waive and relinquish all rights
3 thereunder which are contrary to or in conflict with the
4 limitations or restrictions specified in section 4 of this Act as
5 to hereafter located unpatented mining claims. The execu-
6 tion and acknowledgment of such a waiver and relinquish-
7 ment by such owner or owners and the recordation thereof in
8 the office where the notice or certificate of location of such
9 mining claim is of record shall render such mining claim
10 thereafter and prior to issuance of patent subject to the
11 limitations and restrictions in section 4 of this Act in all
12 respects as if said mining claim had been located after enact-
13 ment of this Act, but no such waiver or relinquishment shall
14 be deemed in any manner to constitute any concession as to
15 the date of priority of rights under said mining claim or as to
16 the validity thereof.

17 SEC. 7. Nothing in this Act shall be construed in any
18 manner to limit or restrict or to authorize the limitation or
19 restriction of any existing rights of any claimant under any
20 valid mining claim heretofore located, except as such rights
21 may be limited or restricted as a result of a proceeding pursu-
22 ant to section 5 of this Act, or as a result of a waiver and
23 relinquishment pursuant to section 6 of this Act; and nothing
24 in this Act shall be construed in any manner to authorize
25 inclusion in any patent hereafter issued under the mining

1 laws of the United States for any mining claim heretofore
 2 or hereafter located, of any limitation or restriction not other-
 3 wise authorized by law.

84TH CONGRESS
 1ST SESSION

H. R. 5577

A BILL

To amend the Act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

By Mr. ELLSWORTH

APRIL 14, 1955

Referred to the Committee on Interior and Insular
 Affairs

84TH CONGRESS
1ST SESSION

S. 1713

IN THE SENATE OF THE UNITED STATES

APRIL 18, 1955

Mr. ANDERSON (for himself, Mr. BARRETT, Mr. BENNETT, Mr. WATKINS, and Mr. AIKEN) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To amend the Act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 1 of the Act of July 31, 1947 (61 Stat. 681),
4 is amended to read as follows:

5 “SECTION 1. The Secretary, under such rules and regu-
6 lations as he may prescribe, may dispose of mineral mate-
7 rials (including but not limited to, sand, stone, gravel,
8 pumice, pumicite, cinders, and clay) and vegetative mate-
9 rials (including but not limited to yucca, manzanita, mes-

1 quite, cactus, and timber or other forest products) on public
2 lands of the United States, if the disposal of such mineral
3 or vegetative materials (1) is not otherwise expressly au-
4 thorized by law, including the United States mining laws,
5 and (2) is not expressly prohibited by laws of the United
6 States, and (3) would not be detrimental to the public
7 interest. Such materials may be disposed of only in accord-
8 ance with the provisions of this Act and upon the payment
9 of adequate compensation therefor, to be determined by the
10 Secretary: *Provided, however,* That, to the extent not other-
11 wise authorized by law, the Secretary is authorized in his
12 discretion to permit any Federal, State, or Territorial agency,
13 unit or subdivision, including municipalities, or any person,
14 or any association or corporation not organized for profit,
15 to take and remove, without charge, materials and resources
16 subject to this Act, for use other than for commercial or
17 industrial purposes or resale. Where the lands have been
18 withdrawn in aid of a function of a Federal department
19 or agency other than the department headed by the Secre-
20 tary or of a State, Territory, county, municipality, water
21 district, or other local governmental subdivision or agency,
22 the Secretary may make disposals under this Act only with
23 the consent of such other Federal department or agency or
24 of such State, Territory, or local governmental unit. Noth-
25 ing in this Act shall be construed to apply to lands in any

1 national park, or national monument or to any Indian lands,
2 or lands set aside or held for the use or benefit of Indians,
3 including lands over which jurisdiction has been transferred
4 to the Department of the Interior by Executive order for
5 the use of Indians. As used in this Act, the word "Secre-
6 tary" means the Secretary of the Interior except that it
7 means the Secretary of Agriculture where the lands in-
8 volved are administered by him for national forest purposes
9 or for the purposes of title III of the Bankhead-Jones Farm
10 Tenant Act or where withdrawn for the purpose of any other
11 function of the Department of Agriculture."

12 SEC. 2. That section 3 of the Act of July 31, 1947 (61
13 Stat. 681), as amended by the Act of August 31, 1950 (64
14 Stat. 571), is amended to read as follows:

15 "All moneys received from the disposal of materials
16 under this Act shall be disposed of in the same manner as
17 moneys received from the sale of public lands, except that
18 moneys received from the disposal of materials by the Secre-
19 tary of Agriculture shall be disposed of in the same manner
20 as other moneys received by the Department of Agriculture
21 from the administration of the lands from which the disposal
22 of materials is made, and except that moneys received from
23 the disposal of materials from school section lands in Alaska,
24 reserved under section 1 of the Act of March 4, 1915 (38
25 Stat. 1214), shall be set apart as separate and permanent

1 funds in the Territorial Treasury, as provided for income
2 derived from said school section lands pursuant to said Act.”

3 SEC. 3. A deposit of common varieties of sand, stone,
4 gravel, pumice, pumicite, or cinders shall not be deemed a
5 valuable mineral deposit within the meaning of the mining
6 laws of the United States so as to give effective validity to
7 any mining claim hereafter located under such mining laws:
8 *Provided, however,* That nothing herein shall affect the valid-
9 ity of any mining location based upon discovery of some other
10 mineral occurring in or in association with such a deposit.
11 “Common varieties” as used in this Act does not include
12 deposits of such materials which are valuable because the
13 deposit has some property giving it distinct and special value
14 and does not include so-called “block pumice” which occurs
15 in nature in pieces having one dimension of two inches or
16 more.

17 SEC. 4. (a) Any mining claim hereafter located under
18 the mining laws of the United States shall not be used, prior
19 to issuance of patent therefor, for any purposes other than
20 prospecting, mining or processing operations and uses reason-
21 ably incident thereto.

22 (b) Rights under any mining claim hereafter located
23 under the mining laws of the United States shall be subject,
24 prior to issuance of patent therefor, to the right of the United
25 States to manage and dispose of the vegetative surface re-

1 sources thereof and to manage other surface resources there-
2 of (except mineral deposits subject to location under the
3 mining laws of the United States). Any such mining claim
4 shall also be subject, prior to issuance of patent therefor, to
5 the right of the United States, its permittees and licensees,
6 to use so much of the surface thereof as may be necessary for
7 such purposes or for access to adjacent land: *Provided, how-*
8 *ever,* That any use of the surface of any such mining claim by
9 the United States, its permittees or licensees, shall be such as
10 not to endanger or materially interfere with prospecting,
11 mining or processing operations or uses reasonably incident
12 thereto.

13 (c) Except to the extent required for the mining claim-
14 ant's prospecting, mining or processing operations and uses
15 reasonably incident thereto, or for the construction of build-
16 ings or structures in connection therewith, or to provide
17 clearance for such operations or uses, or to the extent author-
18 ized by the United States, no claimant of any mining claim
19 hereafter located under the mining laws of the United States
20 shall, prior to issuance of patent therefor, sever, remove, or
21 use any vegetative or other surface resources thereof which
22 are subject to management or disposition by the United
23 States under the preceding subsection (b). Any severance
24 or removal of timber which is permitted under the exceptions
25 of the preceding sentence, other than severance or removal

1 to provide clearance, shall be in accordance with sound prin-
2 ciples of forest management.

3 SEC. 5. (a) The Secretary of the Federal Department
4 which has the responsibility for administering surface re-
5 sources of any lands belonging to the United States may file
6 as to such lands in the office of the Secretary of the Interior,
7 or in such office as the Secretary of the Interior may desig-
8 nate, a request for publication of notice to mining claimants,
9 for determination of surface rights, which request shall con-
10 tain a description of the lands covered thereby, showing the
11 section or sections of the public land surveys which embrace
12 the lands covered by such request, or if such lands are un-
13 surveyed, either the section or sections which would proba-
14 bly embrace such lands when the public land surveys are
15 extended to such lands or a tie by courses and distances to
16 an approved United States mineral monument.

17 The filing of such request for publication shall be accom-
18 panied by an affidavit or affidavits of a person or persons
19 over twenty-one years of age setting forth that the affiant or
20 affiants have examined the lands involved in a reasonable
21 effort to ascertain whether any person or persons were in
22 actual possession of or engaged in the working of such lands
23 or any part thereof, and, if no person or persons were found
24 to be in actual possession of or engaged in the working of
25 said lands or any part thereof on the date of such examina-

1 tion, setting forth such fact, or, if any person or persons
2 were so found to be in actual possession or engaged in such
3 working on the date of such examination, setting forth the
4 name and address of each such person, unless affiant shall
5 have been unable through reasonable inquiry to obtain in-
6 formation as to the name and address of any such person,
7 in which event the affidavit shall set forth fully the nature
8 and results of such inquiry.

9 The filing of such request for publication shall also be
10 accompanied by the certificate of a title or abstract com-
11 pany, or of a title abstractor, or of an attorney, based upon
12 such company's, abstractor's, or attorney's examination of
13 those instruments which are shown by the tract indexes in
14 the county office of record as affecting the lands described
15 in said request, setting forth the name of any person dis-
16 closed by said instruments to have an interest in said lands
17 under any unpatented mining claim heretofore located, to-
18 gether with the address of such person if such address is
19 disclosed by such instruments of record. "Tract indexes" as
20 used herein shall mean those indexes, if any, as to surveyed
21 lands identifying instruments as affecting a particular legal
22 subdivision of the public land surveys, and as to unsurveyed
23 lands identifying instruments as affecting a particular prob-
24 able legal subdivision according to a projected extension of
25 the public land surveys.

1 Thereupon the Secretary of the Interior, at the expense
2 of the requesting department or agency, shall cause notice
3 to mining claimants to be published in a newspaper having
4 general circulation in the county in which the lands involved
5 are situate.

6 Such notice shall describe the lands covered by such
7 request, as provided heretofore, and shall notify whomever
8 it may concern that if any person claiming or asserting
9 under, or by virtue of, any unpatented mining claim here-
10 tofore located, rights as to such lands or any part thereof,
11 shall fail to file in the office where such request for pub-
12 lication was filed (which office shall be specified in such
13 notice) and within one hundred and fifty days from the date
14 of the first publication of such notice (which date shall be
15 specified in such notice), a verified statement which shall
16 set forth, as to such unpatented mining claim—

17 (1) the date of location;

18 (2) the book and page of recordation of the notice
19 or certificate of location;

20 (3) the section or sections of the public land sur-
21 veys which embrace such mining claim; or if such lands
22 are unsurveyed, either the section or sections which
23 would probably embrace such mining claim when the
24 public land surveys are extended to such lands or a tie

1 by courses and distances to an approved United States
2 mineral monument;

3 (4) whether such claimant is a locator or purchaser
4 under such location; and

5 (5) the name and address of such claimant and names
6 and addresses so far as known to the claimant of any
7 other person or persons claiming any interest or interests
8 in or under such unpatented mining claim;

9 such failure shall be conclusively deemed (i) to constitute
10 a waiver and relinquishment by such mining claimant of any
11 right, title, or interest under such mining claim contrary to
12 or in conflict with the limitations or restrictions specified
13 in section 4 of this Act as to hereafter located unpatented
14 mining claims, and (ii) to constitute a consent by such min-
15 ing claimant that such mining claim, prior to issuance of
16 patent therefor, shall be subject to the limitations and restric-
17 tions specified in section 4 of this Act as to hereafter located
18 unpatented mining claims, and (iii) to preclude thereafter,
19 prior to issuance of patent, any assertion by such mining
20 claimant of any right or title to or interest in or under such
21 mining claim contrary to or in conflict with the limitations or
22 restrictions specified in section 4 of this Act as to hereafter
23 located unpatented mining claims.

24 If such notice is published in a daily paper, it shall be

1 published in the Wednesday issue for nine consecutive weeks,
2 or, if in a weekly paper, in nine consecutive issues, or if in
3 a semiweekly or triweekly paper, in the issue of the same
4 day of each week for nine consecutive weeks.

5 Within fifteen days after the date of first publication of
6 such notice, the department or agency requesting such pub-
7 lication (1) shall cause a copy of such notice to be person-
8 ally delivered to or to be mailed by registered mail addressed
9 to each person in possession or engaged in the working of
10 the land whose name and address is shown by an affidavit
11 filed as aforesaid, and to each person who may have filed,
12 as to any lands described in said notice, a request for notices,
13 as provided in subsection (d) of this section 5, and shall
14 cause a copy of such notice to be mailed by registered mail to
15 each person whose name and address is set forth in the title
16 or abstract company's or title abstractor's or attorney's certifi-
17 cate filed as aforesaid, as having an interest in the lands
18 described in said notice under any unpatented mining claim
19 heretofore located, such notice to be directed to such person's
20 address as set forth in such certificate; and (2) shall file in
21 the office where said request for publication was filed an
22 affidavit showing that copies have been so delivered or
23 mailed.

24 (b) If any claimant under any unpatented mining claim
25 heretofore located which embraces any of the lands described

1 in any notice published in accordance with the provisions of
2 subsection (a) of this section 5, shall fail to file a verified
3 statement, as above provided, within one hundred and fifty
4 days from the date of the first publication of such notice, such
5 failure shall be conclusively deemed, except as otherwise
6 provided in subsection (e) of this section 5, (i) to constitute
7 a waiver and relinquishment by such mining claimant of any
8 right, title, or interest under such mining claim contrary to
9 or in conflict with the limitations or restrictions specified in
10 section 4 of this Act as to hereafter located unpatented
11 mining claims, and (ii) to constitute a consent by such
12 mining claimant that such mining claim, prior to issuance of
13 patent therefor, shall be subject to the limitations and restric-
14 tions specified in section 4 of this Act as to hereafter located
15 unpatented mining claims, and (iii) to preclude thereafter,
16 prior to issuance of patent, any assertion by such mining
17 claimant of any right or title to or interest in or under such
18 mining claim contrary to or in conflict with the limitations or
19 restrictions specified in section 4 of this Act as to hereafter
20 located unpatented mining claims.

21 (c) If any verified statement shall be filed by a mining
22 claimant as provided in subsection (a) of this section 5,
23 then the Secretary of the Interior shall fix a time and place
24 for a hearing to determine the validity and effectiveness of
25 any right or title to, or interest in or under such mining

1 claim, which the mining claimant may assert contrary to
2 or in conflict with the limitations and restrictions specified
3 in section 4 of this Act as to hereafter located unpatented
4 mining claims, which place of hearing shall be in the county
5 where the lands in question or parts thereof are located,
6 unless the mining claimant agrees otherwise. Where veri-
7 fied statements are filed asserting rights to an aggregate of
8 more than twenty mining claims, any single hearing shall
9 be limited to a maximum of twenty mining claims unless
10 the parties affected shall otherwise stipulate and as many
11 separate hearings shall be set as shall be necessary to comply
12 with this provision. The procedures with respect to notice
13 of such a hearing and the conduct thereof, and in respect
14 to appeals shall follow the then established general pro-
15 cedures and rules of practice of the Department of the In-
16 terior in respect to contests or protests affecting public lands
17 of the United States. If, pursuant to such a hearing the
18 final decision rendered in the matter shall affirm the validity
19 and effectiveness of any mining claimant's so asserted right
20 or interest under the mining claim, then no subsequent pro-
21 ceedings under this section 5 of this Act shall have any force
22 or effect upon the so-affirmed right or interest of such mining
23 claimant under such mining claim. If at any time prior to
24 a hearing the department or agency requesting publication
25 of notice and any person filing a verified statement pursuant

1 to such notice shall so stipulate, then to the extent so stipu-
2 lated, but only to such extent, no hearing shall be held with
3 respect to rights asserted under that verified statement, and
4 to the extent defined by the stipulation the rights asserted
5 under that verified statement shall be deemed to be un-
6 affected by that particular published notice.

7 (d) Any person claiming any right under or by virtue
8 of any unpatented mining claim heretofore located and desir-
9 ing to receive a copy of any notice to mining claimants
10 which may be published as above provided in subsection (a)
11 of this section 5, and which may affect lands embraced in
12 such mining claim, may cause to be filed for record in the
13 county office of record where the notice or certificate of loca-
14 tion of such mining claim shall have been recorded, a duly
15 acknowledged request for a copy of any such notice. Such
16 request for copies shall set forth the name and address of the
17 person requesting copies and shall also set forth, as to each
18 heretofore located unpatented mining claim under which
19 such person asserts rights—

20 (1) the date of location;

21 (2) the book and page of the recordation of the
22 notice or certificate of location; and

23 (3) the section or sections of the public land sur-
24 veys which embrace such mining claim; or if such lands
25 are unsurveyed, either the section or sections which

1 would probably embrace such mining claim when the
2 public land surveys are extended to such lands or a
3 tie by courses and distances to an approved United
4 States mineral monument.

5 Other than in respect to the requirements of subsection (a)
6 of this section 5 as to personal delivery or mailing of copies
7 of notices and in respect to the provisions of subsection (e)
8 of this section 5, no such request for copies of published
9 notices and no statement or allegation in such request and no
10 recordation thereof shall affect title to any mining claim or
11 to any land or be deemed to constitute constructive notice
12 to any person that the person requesting copies has, or
13 claims, any right, title, or interest in or under any mining
14 claim referred to in such request.

15 (e) If any department or agency requesting publica-
16 tion shall fail to comply with the requirements of subsection
17 (a) of this section 5 as to the personal delivery or mailing
18 of a copy of notice to any person, the publication of such
19 notice shall be deemed wholly ineffectual as to that person
20 or as to the rights asserted by that person and the failure
21 of that person to file a verified statement, as provided in such
22 notice, shall in no manner affect, diminish, prejudice or bar
23 any rights of that person.

24 SEC. 6. The owner or owners of any unpatented mining

1 claim heretofore located may waive and relinquish all rights
2 thereunder which are contrary to or in conflict with the limi-
3 tations or restrictions specified in section 4 of this Act as to
4 hereafter located unpatented mining claims. The execution
5 and acknowledgment of such a waiver and relinquishment
6 by such owner or owners and the recordation thereof in the
7 office where the notice or certificate of location of such min-
8 ing claim is of record shall render such mining claim there-
9 after and prior to issuance of patent subject to the limitations
10 and restrictions in section 4 of this Act in all respects as if
11 said mining claim had been located after enactment of this
12 Act, but no such waiver or relinquishment shall be deemed
13 in any manner to constitute any concession as to the date of
14 priority of rights under said mining claim or as to the validity
15 thereof.

16 SEC. 7. Nothing in this Act shall be construed in any
17 manner to limit or restrict or to authorize the limitation or
18 restriction of any existing rights of any claimant under any
19 valid mining claim heretofore located, except as such rights
20 may be limited or restricted as a result of a proceeding pur-
21 suant to section 5 of this Act, or as a result of a waiver and
22 relinquishment pursuant to section 6 of this Act; and nothing
23 in this Act shall be construed in any manner to authorize
24 inclusion in any patent hereafter issued under the mining

A BILL

To amend the Act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

By Mr. ANDERSON, Mr. BARRETT, Mr. BENNETT,
Mr. WATKINS, and Mr. AIKEN

APRIL 18, 1955

Read twice and referred to the Committee on Interior
and Insular Affairs

1 laws of the United States for any mining claim heretofore
2 or hereafter located, of any limitation or restriction not
3 otherwise authorized by law.

84TH CONGRESS
1ST SESSION

H. R. 5891

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 1955

Mr. ROGERS of Texas introduced the following bill; which was referred to the
Committee on Interior and Insular Affairs

A BILL

To amend the Act of July 31, 1947 (61 Stat. 681) and the
mining laws to provide for multiple use of the surface of the
same tracts of the public lands, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 1 of the Act of July 31, 1947 (61 Stat. 681)
4 is amended to read as follows:

5 “SEC. 1. The Secretary, under such rules and regulations
6 as he may prescribe, may dispose of mineral materials (includ-
7 ing but not limited to, sand, stone, gravel, pumice, pumicite,
8 cinders and clay) and vegetative materials (including but
9 not limited to yucca, manzanita, mesquite, cactus, and timber
10 or other forest products) on public lands of the United

1 States, if the disposal of such mineral or vegetative materials
2 (1) is not otherwise expressly authorized by law, including
3 the United States mining laws, and (2) is not expressly
4 prohibited by laws of the United States, and (3) would not
5 be detrimental to the public interest. Such materials may
6 be disposed of only in accordance with the provisions of this
7 Act and upon the payment of adequate compensation there-
8 for, to be determined by the Secretary: *Provided, however,*
9 That, to the extent not otherwise authorized by law, the
10 Secretary is authorized in his discretion to permit any Fed-
11 eral, State, or Territorial agency, unit or subdivision, includ-
12 ing municipalities, or any person, or any association or
13 corporation not organized for profit, to take and remove,
14 without charge, materials and resources subject to this Act,
15 for use other than for commercial or industrial purposes or
16 resale. Where the lands have been withdrawn in aid of a
17 function of a Federal department or agency other than the
18 Department headed by the Secretary or of a State, Territory,
19 county, municipality, water district, or other local govern-
20 mental subdivision or agency, the Secretary may make
21 disposals under this Act only with the consent of such other
22 Federal department or agency or of such State, Territory,
23 or local governmental unit. Nothing in this Act shall be
24 construed to apply to lands in any national park, or national
25 monument or to any Indian lands, or lands set aside or held

1 for the use or benefit of Indians, including lands over which
2 jurisdiction has been transferred to the Department of the
3 Interior by Executive order for the use of Indians. As used
4 in this Act, the word 'Secretary' means the Secretary of the
5 Interior except that it means the Secrétary of Agriculture
6 where the lands involved are administered by him for
7 national forest purposes or for the purposes of title III of the
8 Bankhead-Jones Farm Tenant Act or where withdrawn for
9 the purpose of any other function of the Department of
10 Agriculture."

11 SEC. 2. That section 3 of the Act of July 31, 1947 (61
12 Stat. 681), as amended by the Act of August 31, 1950
13 (64 Stat. 571), is amended to read as follows:

14 "All moneys received from the disposal of materials
15 under this Act shall be disposed of in the same manner as
16 moneys received from the sale of public lands, except that
17 moneys received from the disposal of materials by the
18 Secretary of Agriculture shall be disposed of in the same
19 manner as other moneys received by the Department of
20 Agriculture from the administration of the lands from which
21 the disposal of materials is made, and except that moneys
22 received from the disposal of materials from school section
23 lands in Alaska, reserved under section 1 of the Act of
24 March 4, 1915 (38 Stat. 1214), shall be set apart as sep-
25 arate and permanent funds in the Territorial treasury, as

1 provided for income derived from said school section lands
2 pursuant to said Act.”

3 SEC. 3. A deposit of common varieties of sand, stone,
4 gravel, pumice, pumicite, or cinders shall not be deemed a
5 valuable mineral deposit within the meaning of the mining
6 laws of the United States so as to give effective validity to
7 any mining claim hereafter located under such mining laws:
8 *Provided, however,* That nothing herein shall affect the va-
9 lidity of any mining location based upon discovery of some
10 other mineral occurring in or in association with such a
11 deposit. “Common varieties” as used in this Act does not
12 include deposits of such materials which are valuable because
13 the deposit has some property giving it distinct and special
14 value and does not include so-called “block pumice” which
15 occurs in nature in pieces having one dimension of two
16 inches or more.

17 SEC. 4 (a) Any mining claim hereafter located under
18 the mining laws of the United States shall not be used, prior
19 to issuance of patent therefor, for any purposes other than
20 prospecting, mining, or processing operations and uses rea-
21 sonably incident thereto.

22 (b) Rights under any mining claim hereafter located
23 under the mining laws of the United States shall be subject,
24 prior to issuance of patent therefor, to the right of the United
25 States to manage and dispose of the vegetative surface re-

1 sources thereof and to manage other surface resources
2 thereof (except mineral deposits subject to location
3 under the mining laws of the United States). Any such
4 mining claim shall also be subject, prior to issuance of patent
5 therefor, to the right of the United States, its permittees and
6 licensees, to use so much of the surface thereof as may be
7 necessary for such purposes or for access to adjacent land:
8 *Provided, however,* That any use of the surface of any such
9 mining claim by the United States, its permittees or licensees,
10 shall be such as not to endanger or materially interfere with
11 prospecting, mining, or processing operations or uses rea-
12 sonably incident thereto.

13 (c) Except to the extent required for the mining claim-
14 ant's prospecting, mining, or processing operations and uses
15 reasonably incident thereto, or for the construction of build-
16 ings or structures in connection therewith, or to provide
17 clearance for such operations or uses, or to the extent au-
18 thorized by the United States, no claimant of any mining
19 claim hereafter located under the mining laws of the United
20 States shall, prior to issuance of patent therefor, sever, re-
21 move or use any vegetative or other surface resources thereof
22 which are subject to management or disposition by the
23 United States under the preceding subsection (b). Any
24 severance or removal of timber which is permitted under
25 the exceptions of the preceding sentence, other than sever-

1 ance or removal to provide clearance, shall be in accordance
2 with sound principles of forest management.

3 SEC. 5. (a) The Secretary of the Federal Department
4 which has the responsibility for administering surface re-
5 sources of any lands belonging to the United States may file
6 as to such lands in the office of the Secretary of the Interior,
7 or in such office as the Secretary of the Interior may desig-
8 nate, a request for publication of notice to mining claimants,
9 for determination of surface rights, which request shall con-
10 tain a description of the lands covered thereby, showing the
11 section or sections of the public land surveys which embrace
12 the lands covered by such request, or if such lands are un-
13 surveyed, either the section or sections which would probably
14 embrace such lands when the public land surveys are ex-
15 tended to such lands or a tie by courses and distances to an
16 approved United States mineral monument.

17 The filing of such request for publication shall be accom-
18 panied by an affidavit or affidavits of a person or persons
19 over twenty-one years of age setting forth that the affiant
20 or affiants have examined the lands involved in a reasonable
21 effort to ascertain whether any person or persons were in
22 actual possession of or engaged in the working of such lands
23 or any part thereof, and, if no person or persons were found
24 to be in actual possession of or engaged in the working of
25 said lands or any part thereof on the date of such examina-

tion, setting forth such fact, or, if any person or persons were so found to be in actual possession or engaged in such working on the date of such examination, setting forth the name and address of each such person, unless affiant shall have been unable through reasonable inquiry to obtain information as to the name and address of any such person, in which event the affidavit shall set forth fully the nature and results of such inquiry.

The filing of such request for publication shall also be accompanied by the certificate of a title or abstract company, or of a title abstractor, or of an attorney, based upon such company's, abstractor's, or attorney's examination of those instruments which are shown by the tract indexes in the county office of record as affecting the lands described in said request, setting forth the name of any person disclosed by said instruments to have an interest in said lands under any unpatented mining claim heretofore located, together with the address of such person if such address is disclosed by such instruments of record. "Tract indexes" as used herein shall mean those indexes, if any, as to surveyed lands identifying instruments as affecting a particular legal subdivision of the public land surveys, and as to unsurveyed lands identifying instruments as affecting a particular probable legal subdivision according to a projected extension of the public land surveys.

1 Thereupon the Secretary of the Interior, at the expense
2 of the requesting department or agency, shall cause notice
3 to mining claimants to be published in a newspaper having
4 general circulation in the county in which the lands involved
5 are situate.

6 Such notice shall describe the lands covered by such
7 request, as provided heretofore, and shall notify whomever
8 it may concern that if any person claiming or asserting
9 under, or by virtue of, any unpatented mining claim hereto-
10 fore located, rights as to such lands or any part thereof,
11 shall fail to file in the office where such request for publica-
12 tion was filed (which office shall be specified in such notice)
13 and within one hundred fifty days from the date of the
14 first publication of such notice (which date shall be specified
15 in such notice), a verified statement which shall set forth,
16 as to such unpatented mining claim—

17 (1) the date of location;

18 (2) the book and page of recordation of the notice
19 or certificate of location;

20 (3) the section or sections of the public land sur-
21 veys which embrace such mining claim; or if such lands
22 are unsurveyed, either the section or sections which
23 would probably embrace such mining claim when the
24 public land surveys are extended to such lands or a tie

by courses and distances to an approved United States mineral monument;

(4) whether such claimant is a locator or purchaser under such location; and

(5) the name and address of such claimant and names and addresses so far as known to the claimant of any other person or persons claiming any interest or interests in or under such unpatented mining claim;

such failure shall be conclusively deemed (i) to constitute a waiver and relinquishment by such mining claimant of any right, title, or interest under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, and (ii) to constitute a consent by such mining claimant that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, and (iii) to preclude thereafter, prior to issuance of patent, any assertion by such mining claimant of any right or title to or interest in or under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims.

If such notice is published in a daily paper, it shall be

1 published in the Wednesday issue for nine consecutive weeks,
2 or, if in a weekly paper, in nine consecutive issues, or if in
3 a semiweekly or triweekly paper, in the issue of the same
4 day of each week for nine consecutive weeks.

5 Within fifteen days after the date of first publication
6 of such notice, the department or agency requesting such
7 publication (1) shall cause a copy of such notice to be
8 personally delivered to or to be mailed by registered mail
9 addressed to each person in possession or engaged in the
10 working of the land whose name and address is shown by
11 an affidavit filed as aforesaid, and to each person who may
12 have filed, as to any lands described in said notice, a request
13 for notices, as provided in subsection (d) of this section 5,
14 and shall cause a copy of such notice to be mailed by reg-
15 istered mail to each person whose name and address is set
16 forth in the title or abstract company's or title abstractor's
17 or attorney's certificate filed as aforesaid, as having an in-
18 terest in the lands described in said notice under any un-
19 patented mining claim heretofore located, such notice to be
20 directed to such person's address as set forth in such cer-
21 tificate; and (2) shall file in the office where said request
22 for publication was filed an affidavit showing that copies
23 have been so delivered or mailed.

24 (b) If any claimant under any unpatented mining
25 claim heretofore located which embraces any of the lands

1 described in any notice published in accordance with the pro-
2 visions of subsection (a) of this section 5, shall fail to file
3 a verified statement, as above provided, within one hundred
4 and fifty days from the date of the first publication of such
5 notice, such failure shall be conclusively deemed, except as
6 otherwise provided in subsection (e) of this section 5, (i)
7 to constitute a waiver and relinquishment by such mining
8 claimant of any right, title, or interest under such mining
9 claim contrary to or in conflict with the limitations or restric-
10 tions specified in section 4 of this Act as to hereafter located
11 unpatented mining claims, and (ii) to constitute a consent
12 by such mining claimant that such mining claim, prior to
13 issuance of patent therefor, shall be subject to the limitations
14 and restrictions specified in section 4 of this Act as to here-
15 after located unpatented mining claims, and (iii) to pre-
16 clude thereafter, prior to issuance of patent, any assertion
17 by such mining claimant of any right or title to or interest
18 in or under such mining claim contrary to or in conflict with
19 the limitations or restrictions specified in section 4 of this
20 Act as to hereafter located unpatented mining claims.

21 (c) If any verified statement shall be filed by a mining
22 claimant as provided in subsection (a) of this section 5,
23 then the Secretary of the Interior shall fix a time and place
24 for a hearing to determine the validity and effectiveness of
25 any right or title to, or interest in or under such mining claim,

1 which the mining claimant may assert contrary to or in con-
2 flict with the limitations and restrictions specified in section
3 4 of this Act as to hereafter located unpatented mining
4 claims, which place of hearing shall be in the county where
5 the lands in question or parts thereof are located, unless the
6 mining claimant agrees otherwise. Where verified state-
7 ments are filed asserting rights to an aggregate of more than
8 twenty mining claims, any single hearing shall be limited
9 to a maximum of twenty mining claims unless the parties
10 affected shall otherwise stipulate and as many separate hear-
11 ings shall be set as shall be necessary to comply with this
12 provision. The procedures with respect to notice of such a
13 hearing and the conduct thereof, and in respect to appeals
14 shall follow the then established general procedures and rules
15 of practice of the Department of the Interior in respect to
16 contests or protests affecting public lands of the United
17 States. If, pursuant to such a hearing the final decision
18 rendered in the matter shall affirm the validity and effective-
19 ness of any mining claimant's so-asserted right or interest
20 under the mining claim, then no subsequent proceedings un-
21 der this section 5 of this Act shall have any force or effect
22 upon the so-affirmed right or interest of such mining claim-
23 ant under such mining claim. If at any time prior to a hear-
24 ing the department or agency requesting publication of notice
25 and any person filing a verified statement pursuant to such

1 notice shall so stipulate, then to the extent so stipulated, but
2 only to such extent, no hearing shall be held with respect
3 to rights asserted under that verified statement, and to the
4 extent defined by the stipulation the rights asserted under
5 that verified statement shall be deemed to be unaffected by
6 that particular published notice.

7 (d) Any person claiming any right under or by virtue
8 of any unpatented mining claim heretofore located and
9 desiring to receive a copy of any notice to mining claimants
10 which may be published as above provided in subsection
11 (a) of this section 5, and which may affect lands embraced
12 in such mining claim, may cause to be filed for record in
13 the county office of record where the notice or certificate
14 of location of such mining claim shall have been recorded,
15 a duly acknowledged request for a copy of any such notice.
16 Such request for copies shall set forth the name and address
17 of the person requesting copies and shall also set forth, as to
18 each heretofore located unpatented mining claim under which
19 such person asserts rights—

20 (1) the date of location;

21 (2) the book and page of the recordation of the
22 notice or certificate of location; and

23 (3) the section or sections of the public land sur-
24 veys which embrace such mining claim; or if such lands
25 are unsurveyed, either the section or sections which

1 would probably embrace such mining claim when the
2 public land surveys are extended to such lands or a tie
3 by courses and distances to an approved United States
4 mineral monument.

5 Other than in respect to the requirements of subsection (a)
6 of this section 5 as to personal delivery or mailing of copies
7 of notices and in respect to the provisions of subsection (e)
8 of this section 5, no such request for copies of published
9 notices and no statement or allegation in such request and
10 no recordation thereof shall affect title to any mining claim or
11 to any land or be deemed to constitute constructive notice
12 to any person that the person requesting copies has, or claims,
13 any right, title, or interest in or under any mining claim
14 referred to in such request.

15 (e) If any department or agency requesting publica-
16 tion shall fail to comply with the requirements of subsection
17 (a) of this section 5 as to the personal delivery or mailing
18 of a copy of notice to any person, the publication of such
19 notice shall be deemed wholly ineffectual as to that person
20 or as to the rights asserted by that person and the failure of
21 that person to file a verified statement, as provided in such
22 notice, shall in no manner affect, diminish, prejudice or bar
23 any rights of that person.

24 SEC. 6. The owner or owners of any unpatented mining

1 claim heretofore located may waive and relinquish all rights
2 thereunder which are contrary to or in conflict with the
3 limitations or restrictions specified in section 4 of this Act as
4 to hereafter located unpatented mining claims. The execu-
5 tion and acknowledgment of such a waiver and relinquish-
6 ment by such owner or owners and the recordation thereof
7 in the office where the notice or certificate of location of
8 such mining claim is of record shall render such mining claim
9 thereafter and prior to issuance of patent subject to the limi-
10 tations and restrictions in section 4 of this Act in all respects
11 as if said mining claim had been located after enactment of
12 this Act, but no such waiver or relinquishment shall be
13 deemed in any manner to constitute any concession as to the
14 date of priority of rights under said mining claim or as to the
15 validity thereof.

16 SEC. 7. Nothing in this Act shall be construed in any
17 manner to limit or restrict or to authorize the limitation or
18 restriction of any existing rights of any claimant under any
19 valid mining claim heretofore located, except as such rights
20 may be limited or restricted as a result of a proceeding pur-
21 suant to section 5 of this Act, or as a result of a waiver and
22 relinquishment pursuant to section 6 of this Act; and noth-
23 ing in this Act shall be construed in any manner to authorize
24 inclusion in any patent hereafter issued under the mining

1 laws of the United States for any mining claim heretofore
 2 or hereafter located, of any limitation or restriction not other-
 3 wise authorized by law.

84TH CONGRESS
 1ST Session

H. R. 5891

A BILL

To amend the Act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

By Mr. ROGERS of Texas

APRIL 27, 1955

Referred to the Committee on Interior and Insular
 Affairs

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued May 23, 1955
For actions of May 20, 1955
84th-1st, No. 84

CONTENTS

Agricultural production..7	Foreign trade.....8	School milk.....4
Appropriations.....1,3	Forestry.....1,5	Territories and
Dairy industry.....6	Price supports.....2	possessions.....4,8
Family-size farms.....2	Roads.....1	Tung oil.....8

HIGHLIGHTS: Senate debated road bill. Sen. Watkins spoke in favor of flexible price-supports program. House subcommittee approved bill to amend forest mining laws. Senate agreed to conference report on Treasury-Post Office appropriation bill.

SENATE

1. ROADS. Began debate on S. 1048, to authorize appropriations for roads (pp. 5702-32). The bill includes \$24,000,000 for forest development roads and trails for each of the fiscal years 1958 through 1961 and \$22,500,000 for forest highways for each of the same years. The bill also contains a provision that "hereafter funds available for forest development roads and trails shall also be available for adjacent vehicular parking areas and/or sanitary, water, and fire control facilities."
2. PRICE SUPPORTS. Sen. Watkins spoke favoring the present flexible price supports program, and discussed problems of the family-size farm (pp. 5732-5).
3. APPROPRIATIONS. Agreed to the conference report on H. R. 4876, the Treasury-Post Office appropriation bill for 1956 (pp. 5702-3).
4. SCHOOL MILK. Received an Hawaiian Legislature resolution urging extension of the special school milk program to Hawaii (p. 5704).

HOUSE

5. FORESTS. The "Daily Digest" states that the Interior and Insular Affairs subcommittee approved for reporting to the full committee, with amendments, H. R. 5891, to amend the mining laws to provide for multiple use of the surface of the same tracts of public lands (p. D447).

ITEMS IN APPENDIX

6. DAIRY PRODUCTS. Sen. Thye inserted an article from the Wall Street Journal on the lower price of dairy products and the higher cost of feed (pp. A3501-2).

7. AGRICULTURAL PRODUCTION. Sen. Beall inserted a newspaper article on the improvement of Maryland's agriculture industry in the past decade (pp. 3505-6).

BILL INTRODUCED

8. FOREIGN TRADE. S. 2025, by Sen. Ellender (for himself and others), to regulate commerce among the several States, with and among the Territories and possessions of the United States, and with foreign countries; to protect the welfare of consumers of tung oil and of those engaged in the domestic tung nut and tung oil producing industry, to promote the export trade of the United States; to Agriculture and Forestry Committee (p. 5706).

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COMMITTEE HEARING ANNOUNCEMENTS FOR MAY 23: Two-price rice plan, S. Agriculture (Morse to testify, accompanied by Paarlberg, Sorkin, Shulman, Post). Continuation of special livestock loan authority, H. Agriculture (McLeaish and Smith, FHA, to testify). Mexican farm labor bill, H. Agriculture (exec.).

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Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued May 25, 1955
For actions of May 24, 1955
84th-1st, No.86

CONTENTS

Appropriations.....1	Labor, farm.....2	Roads.....6,15
Buildings.....8	Manpower.....16	Surplus commodities.....20
Coffee.....1	Mining.....4	Territories and possessions.....3
Electrification.....19	Monopolies.....13	Transportation.....18,21
Exports.....18	Personnel.....10	Water resources.....3
Farm program.....14	Postal pay.....7	Weather research.....1
Food and drugs.....12	Reclamation.....19	Wheat.....5,11
Forestry.....4,6,9	Rice.....18	
Hoover Commission.....17		

HIGHLIGHTS: Senate debated road bill. House committee reported Mexican farm labor bill. House passed Commerce Department appropriation bill. Sen. Eastland inserted Sen. Ellender's speech criticizing administration's farm program.

HOUSE

1. APPROPRIATIONS. Passed with amendments H. R. 6367, the Commerce Department appropriation bill for 1956 (pp. 5841-72). Agreed to an amendment by Rep. Fogarty increasing Weather Bureau funds by \$2,250,000 for improving advance weather information relative to hurricane warnings (pp. 5861-72). Rejected, 54 to 61, an amendment by Rep. Sullivan to increase by \$25,000 the funds of the Bureau of the Census for the gathering and publishing of data on coffee stocks on hand in the U. S. (pp. 5855-8). Rep. Rogers (Mass.) urged additional appropriations for weather research (p. 5873).
(H. Rept. 625)
2. FARM LABOR. The Agriculture Committee reported with amendment H. R. 3822, extending for $3\frac{1}{2}$ years (until June 30, 1959), the program of recruitment of agricultural workers from Mexico (p. 5879). The bill, as amended, would eliminate double liability for transportation and expenses of Mexican workers back to Mexico where the employer had paid such expenses, but the worker does not return to Mexico and is later picked up by Federal immigration authorities. It also would require the Dept. of Labor to carry out, in all areas affected by the program, procedures which have been used in most areas of consulting with both employers and workers in obtaining information as to the need for additional workers, and the wages paid in the area to workers doing similar jobs.
3. ALASKA WATER RESOURCES. The Rules Committee reported a resolution for the consideration of H. R. 3990, to authorize the Secretary of the Interior to investigate and report to Congress on projects for the conservation, development, and utilization of the water resources in Alaska (p. 5873).
4. FORESTS; MINING. The Interior and Insular Affairs Committee ordered reported with amendments H. R. 5891, to amend the mining laws to provide for multiple use of the surface of the same tracts of public lands (p. D460).

SENATE

5. WHEAT. Received a Nebraska Legislature resolution urging legislation for the improvement of wheat (p. 5882).
6. ROADS. Continued debate on S. 1048, to authorize federal aid for road construction (pp. 5890-1, 5914-7). The committee report on this bill includes the following statement regarding provision of sanitary, water, and fire control facilities in connection with forest roads and trails: "It was understood that the cost of the desired facilities would be very nominal." The committee report also includes the following statement regarding roads on or to Federal lands: "The Committee has continued the contractual authority to the Secretary of the Department charged with the administration of such funds, to incur obligations, approve projects, and enter contracts, under authorizations for the miscellaneous roads on Federal lands, 1 year in advance of the year for which authorized. It is disturbed, however, by reports that the contractual authority for these road classifications included in the Federal-Aid Highway Act of 1954 has been used so sparingly, in spite of the great need for such projects in the Western States, particularly on forest and public land highways.
7. POSTAL PAY BILL. Voted to sustain the President's veto of S. 1. Although 54 voted to override and 39 voted to sustain, a two-thirds majority would have been necessary to override. (pp. 5891-5912.)

BILLS INTRODUCED

8. BUILDINGS. H. R. 6434, by Rep. Hays, Ark., to authorize the Administrator of General Services to assist in planning and financing the construction of county agricultural buildings; to Public Works Committee (p. 5879).
9. FORESTRY. H. R. 6435, by Rep. Hiestand, to provide for the establishment of a National Fire Research Commission; to Government Operations Committee (p. 5879).
10. PERSONNEL. H. R. 6436, to amend the Federal Employees' Group Life Insurance Act of 1954; to Post Office and Civil Service Committee (p. 5879).
H. R. 6450, by Rep. Derounian, to increase the rates of basic salary of postmasters, officers, supervisors, and employees in the postal field service, to eliminate certain salary inequities; to Post Office and Civil Service Committee (p. 5879).
S. 2061, by Sen. Johnston, S. C., (for himself and others) to increase the rates of basic compensation of officers and employees in the field service of the Post Office Department; to Post Office and Civil Service Committee (p. 5883).
S. 2062, by Sen. Carlson, to increase the rates of basic salary of postmasters, officers, supervisors, and employees in the postal field service, to eliminate certain salary inequities; to Post Office and Civil Service Committee (p. 5883).
11. WHEAT. H. R. 6437, by Rep. Jonas, to amend the Agricultural Adjustment Act of 1938 to exempt certain wheat producers from liability under the act where all the wheat crop is fed or used for seed on the farm; to Agriculture Committee (p. 5879).
12. FOOD AND DRUGS. H. R. 6446, "to revise, codify, and enact into law, title 21 of the United States Code, entitled 'Food, Drugs, and Cosmetics';" to Judiciary Committee (p. 5879).

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued June 7, 1955
For actions of June 6, 1955
84th-1st, No. 93

CONTENTS

Acreage allotments.....19,20	Grain storage.....22,24	Science.....1
Administrative services.....23	Housing.....4,7	Small business.....3
Appropriations.....1,7,8,27	Immigration.....11	Soil conservation.....18
Contracts.....14	Labor standards.....5,7	Supergrades.....1,3
Cotton.....19	Legislative program.....7	Surplus property.....23
Dairy industry.....25	Mining.....10	Travel.....26
Disaster relief.....1,3	Poultry.....21	Veterans' benefits.....4
Electrification.....6,9,15	Prices.....13,19	Water, research.....2
Farm loans.....4,9	REA.....9,15	conservation.....15
Foreign aid.....16	Reclamation.....6,12,15	Weather.....17
Forest service.....8	Retirement.....1	Wheat.....20,22
Forestry.....10,13	Salt-water research.....2	

HIGHLIGHTS: House received conference report on Interior appropriation bill, including FS items. House passed bill to modify REA funds formula. Ready for President. House committee reported forest mining bill. Senate passed Labor-HEW and independent offices appropriation bills.

SENATE

1. APPROPRIATIONS. Passed with amendments H. R. 5046, the Labor-HEW appropriation bill, 1956, which had been reported on June 3 during recess (S. Rept. 410). Senate conferees were appointed. (pp. 6486, 6495-508.)
Passed with amendments H. R. 5240, the independent offices appropriation bill, 1956, which had been reported on June 3 during recess (S. Rept. 411). Senate conferees were appointed. Agreed to committee amendments increasing the President's disaster relief fund from \$2,000,000 to \$5,000,000, increasing the National Science Foundation from \$12,250,000 to \$20,000,000, and authorizing additional supergrades in GAO. Agreed to an amendment by Sen. Holland to reduce from \$250,000,000 to \$216,000,000 the civil service retirement and disability fund. (pp. 6486, 6509-13.)
2. SALT-WATER RESEARCH. Senate conferees were appointed on H. R. 2126, to continue and expand the Interior Department research program on converting salt water to fresh water (p. 6507). House conferees have been appointed.
3. SMALL BUSINESS; DROUGHT RELIEF. Passed without amendment S. 2127, to extend the Small Business Administration for 2 years, to increase the loan limit from \$150,000 to \$250,000, and to enable SBA to make loans to distressed small businesses in drought areas (pp. 6516-19). The bill includes authority for additional supergrades in SBA.

4. FARM LOANS. The Labor and Public Welfare Committee reported without amendment H. R. 5106, to amend the Servicemen's Readjustment Act of 1944 so as to authorize loans for farm housing to be guaranteed or insured under the same terms and conditions as apply to residential housing (S. Rept. 464)(p. 6490).
Sen. Carlson inserted the recommendations of the Farm Credit Board of Wichita regarding S. 1286 and H. R. 5168, the farm credit bills (p. 6493).
5. LABOR STANDARDS. The "Daily Digest" states: "On Friday, June 3, the Labor subcommittee, in executive session, ordered favorably reported to the full committee certain proposals amending the Fair Labor Standards Act, including increasing the minimum hourly wage from 75 cents to \$1, effective January 1, 1956, and certain proposals relating to minimum wages in Puerto Rico and the Virgin Islands. The committee agreed to postpone, until a later date, consideration of coverage of additional workers under the Fair Labor Standards Act." (p.D509.)
6. ELECTRIFICATION; RECLAMATION. Sen. Neuberger was critical of the Supreme Court decision permitting the Portland General Electric Company to build certain dam sites. He suggested that the need for the Hells Canyon dam was evident and that other dam site considerations would imperil the fisheries industry of the Columbia River Basin (pp. 6524-8).
Sen. Morse inserted a newspaper article, letter to the editor, and resolution of the Oregon State Council of Carpenters in support of a high Hells Canyon Dam (pp. 6529-30).
7. LEGISLATIVE PROGRAM. Majority Leader Johnson scheduled consideration of S.2126, the housing bill, on Tuesday; H. R. 5695, to suspend copper import taxes, on Tuesday or Wednesday; the minimum wage bill on Tuesday or Wednesday (or as soon as reported); and the Interior appropriation bill when the House acts (p. 6488).

HOUSE

8. APPROPRIATIONS; FOREST SERVICE. Received the conference report (H. Rept. 731) on the Interior Department appropriation bill, 1956 (pp. 6539-40). Attached is a table on Forest Service items.
9. RURAL ELECTRIFICATION. Passed without amendment S. 153, to amend the Rural Electrification Act, 1936 (pp. 6544-7). The bill: Retains but modifies the State allotment formula by making 25% (instead of 50%) of the annual loan fund appropriations subject to State allotment on the basis of unelectrified farms during the first six months of the fiscal year. Thereafter the unexpended or unobligated funds would be merged with the remaining 75% of the annual loan funds which would be available without allotment, with not more than 25% of unallotted annual loan funds to be employed in any one State, or in all of the Territories. Loan funds which are not loaned or obligated may be carried over to the following years, under the amendment, but not more than 25% of such funds could be used in any one State or in all of the Territories. This bill will now be sent to the President
10. FORESTRY; MINING. The Committee on Interior and Insular Affairs reported with amendment H. R. 5891, which would provide for multiple use of the surface of public lands (H. Rept. 730) (p. 6557).

BILLS INTRODUCED

11. IMMIGRATION. S. 2149, by Sen. Langer, to amend the Refugee Relief Act of 1953 so as to relax certain requirements for qualifying under such act; to Judiciary Committee (p. 6491).

AMENDING THE ACT OF JULY 31, 1947 (61 STAT. 681), AND THE
MINING LAWS TO PROVIDE FOR MULTIPLE USE OF THE SUR-
FACE OF THE SAME TRACTS OF THE PUBLIC LANDS

JUNE 6, 1955.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

MR. ENGLE, from the Committee on Interior and Insular Affairs, sub-
mitted the following

REPORT

[To accompany H. R. 5891]

The Committee on Interior and Insular Affairs, to whom was re-
ferred the bill (H. R. 5891) to amend the act of July 31, 1947 (61
Stat. 681), and the mining laws to provide for multiple use of the
surface of the same tracts of the public lands, and for other purposes,
having considered the same, report favorably thereon with amend-
ments and recommend that the bill, as amended, do pass.

The amendments are as follows:

Page 2, line 1, following the word "States," insert the words:

including for the purposes of this Act land described in the Acts of August 28,
1937 (50 Stat. 874), and of June 24, 1954 (68 Stat. 270),

Page 3, line 10, strike the word "Agriculture." and insert in lieu
thereof the words:

Agriculture: *Provided*, That, notwithstanding any other provisions of law, such
leases or permits may be issued for lands administered for national park, monu-
ment, and wildlife purposes only when the President, by Executive order, finds
and declares that such action is necessary in the interests of national defense.

Page 3, line 21, following the word "except" insert the words:

that revenues from the lands described in the Act of August 28, 1937 (50 Stat.
874) and the Act of June 24, 1954 (68 Stat. 270) shall be disposed of in accordance
with said Acts and except.

Page 6, line 3, strike the words "The Secretary of the Federal
Department" and insert in lieu thereof the words "The head of a
Federal department or agency".

Page 16, line 3, change the period to a comma and add the words:

or to limit or repeal any existing authority to include any limitation or restriction
in any such patent.

LEGISLATION CONSIDERED

In reporting H. R. 5891, by Representative Rogers, of Texas, it is pointed out that the measure reported is 1 of a total of 10 bills having an identical purpose considered by the committee. The others: H. R. 5561, by Representative Dawson, of Utah; H. R. 5563, by Representative Fjare, of Montana; H. R. 5572, by Representative Young, of Nevada; H. R. 5577 by Representative Ellsworth, of Oregon; H. R. 5595, by Representative Cooley, of North Carolina; H. R. 5742, by Representative Hope, of Kansas; H. R. 6223, by Representative Udall, of Arizona; H. R. 6307, by Representative Budge, of Idaho; and H. R. 6372, by Representative Engle, of California.

PURPOSE

H. R. 5891, if enacted into law, would amend the act of July 31, 1947 (61 Stat. 681; 43 U. S. C. 1185), commonly known as the Materials Act of 1947, in two respects: by barring future locations under the mining laws for certain materials commonly occurring throughout the United States; by giving to the Secretary of Agriculture administrative responsibility under the Materials Act.

If enacted, H. R. 5891 would also amend the general mining laws to permit more efficient management and administration of the surface resources of the public lands by providing for multiple use of the same tracts of such lands.

To achieve these objectives, the bill would:

(1) Amend the Materials Act of 1947 to prohibit future location and removal, under the mining laws, of common varieties of sand, stone, gravel, pumice, pumicite, and cinders, by requiring disposition of these materials under the Materials Act.

(2) Amend the Materials Act of 1947 to give to the Secretary of Agriculture the same authority with respect to mineral materials (including, but not limited to, sand, stone, gravel, pumice, pumicite, cinders, and clay), and vegetative materials (including, but not limited to, yucca, manzanita, mesquite, cactus, and timber or other forest products) located on lands under his jurisdiction as that which the Secretary of the Interior has with respect to lands under Interior's jurisdiction.

(3) Amend the general mining law to prohibit the use of any hereafter located unpatented mining claim for any purpose other than prospecting, mining, processing, and related activities.

(4) Amend the general mining law to limit the rights of a holder of an unpatented mining claim hereafter located to the use of the surface and surface resources. The bill would accomplish this by vesting in the responsible United States administrative agency authority to manage and dispose of vegetative surface resources on such locations, to manage other surface resources thereof (except minerals subject to the mining laws), and to use so much of the surface as is necessary for management purposes or for access to adjacent lands.

The legislation would limit surface use to those activities which do not endanger or materially interfere with established mining operations or related activities.

(5) Establish, with respect to invalid, abandoned, or dormant mining claims, located prior to enactment of the bill, an in rem procedure in the nature of a quiet-title action, whereby the United States

could expeditiously resolve uncertainties as to surface rights on such locations.

BACKGROUND OF THE LEGISLATION

The House Committee on Interior and Insular Affairs, through its Subcommittee on Mines and Mining and Public Lands Subcommittee, and working with coordinate legislative committees, has given continuing consideration to legislation proposing more effective management and utilization of the resources of the public lands of the United States.

In the more than 80 years since enactment of the Mining Act of 1872, and the period which has elapsed since passage of the Mineral Leasing Act of 1920, the principal problem faced by the Congress and responsible Federal administrative agencies has been this: the development of statutory authority and regulations thereunder which would operate to encourage mining activity on our vast expanse of public lands compatible with utilization, management, and conservation of surface resources such as water, soil, grass, timber, parks, monuments, recreation areas, fish, wildlife, and waterfowl.

The foregoing problem is one of surface versus subsurface competing uses.

In the same category, equally complex, is the problem posed by competition for surface resources on the public lands, for example: grazing and forestry with watershed management; utilization of reservoir sites for storage of water with the use of the same areas for park, monument, scenic, scientific, and recreational values; development of lands through irrigation, flooding, or drainage with use of the same lands as wildlife habitats, or for breeding, nesting, feeding, and resting places for migratory waterfowl, etc.

The latter problem is one of competing surface uses.

Finally, there has been the problem of developing statutory authority containing conditions under which multiple mineral development could go forward. Public Law 585, 83d Congress, the act of August 13, 1954 (68 Stat. 708), operates to permit multiple use of the same lands; that is, concurrent development under the mining law and the mineral leasing laws. Public Law 585 appears to have resolved many of the problems raised by competing subsurface uses.

It is with the first of these problems—surface versus subsurface competing uses—that H. R. 5891 and related measures deal. Consideration of these measures, which propose to modify established procedures and to redefine the surface rights of persons entering on public lands under the mining laws, must be considered in light of presently existing procedure.

Procedure under mining laws, general

Deposits of minerals, other than coal, oil, gas, oil shale, sodium, phosphate and potash (and sulfur in the States of Louisiana and New Mexico), in both surveyed and unsurveyed lands belonging to the United States, are open to entry under the act of May 10, 1872, as amended. The act of 1872, with amendments, embraces the general mining laws.

Minerals belonging to the United States and excepted from the operation of the general mining laws may be acquired under what are known as the mineral leasing laws, are not subject to location and

purchase under the mining laws, but may be developed only under rights acquired through license or lease.

Mineral resource utilization comes about only after: (1) prospecting; (2) exploration; and (3) development.

Historically, the Federal mining law has been designed to encourage individual prospecting, exploration, and development of the public domain. The incentive for such activity has been the assurance of ultimate private ownership of the minerals and lands so developed. Under these laws, prospectors may go out on the public domain not otherwise withdrawn, locate a mining claim, search out its mineral wealth and, if discovery of mineral is made, can then obtain a patent. The property, with issuance of patent, becomes the individual's to develop or sell, according to his initiative or desire.

A restatement of the traditional approach of Congress to this development of our mineral resources is to be found in section 1 of the act of May 10, 1872 (17 Stat. 91):

* * * all valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, shall be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

Initiation of rights to mineral lands

Rights to mineral lands, owned by the United States, are initiated by prospecting, that is, searching for minerals thereon, and, upon the discovery of mineral, by locating the lands upon which such discovery has been made, or lands which the prospector believes to be valuable for minerals. A location is made by staking the corners of the claim, posting a notice of location thereon, and complying with the State laws regarding the recording of the location in the county recorder's office, discovery work, etc.

National parks and monuments

With the exception of Mount McKinley and Glacial Bay National Monuments, both in Alaska, Organ Pipe Cactus National Monument in Arizona, and Death Valley National Monument in California, mining locations may not be made on lands in national parks and monuments after their establishment.

Minerals in Indian lands

In general, the mineral deposits in Indian reservation lands are subject to special leasing provisions under the administration of the Bureau of Indian Affairs of the Department of the Interior, and not the general mining laws. An exception to this was the Papago Indian Reservation in Arizona. With enactment of Public Law 47, 84th Congress, 1st session, on May 27, 1955, (H. R. 2682) mineral rights in Papago Reservation lands were conveyed to the Papago Tribe with future control in the tribe, and administrative responsibility in the Indian Bureau.

National forest lands

The national forests of the United States are generally open to entry under the mining laws. An exception is made in some instances where Congress has enacted legislation to vest in the Secretary of

Agriculture authority to make regulations with respect to mineral entry in designated national forest areas.

An example is the act of May 24, 1949 (63 Stat. 75; 16 U. S. C. 482 n) which applies to lands within Coconino National Forest, Ariz., and declares that mineral locations made after the date of the act within a specified area (some 20,000 acres) would confer on the locator or patentee only mineral rights and the right to use timber and surface as needed for mining purposes. The purpose of the act was to reduce the incentive to locate mining claims for nonmining activities without at the same time interfering with the development of bona fide mineral values.

Your committee reported, the House and Senate passed, and the President signed into law on May 13, 1955, H. R. 2679, which extends the application of the act of May 24, 1949, to an additional 78,000 acres in the Coconino National Forest.

Location and its effect

Upon entering the lands selected the prospector (also known as an entryman, locator, or claimant) must, to protect his claim, stake it out. Under the law, he is limited in any one claim to an area of not to exceed 20 acres. Under traditional practice, this claim will be approximately 600 by 1,500 feet, or less. By posting notice of location, which notice contains the name of the claimant, date of location, and a description of the claim (forms used vary from mining district to mining district), the locator, without further requirement under Federal law, as of that moment, acquires the immediate right to exclusive possession, control, and use of the land within the corners of his location stakes. He must, of course, to protect this right to exclusive possession—

(1) comply with the State law having to do with recordation, etc.; and

(2) carry out under the Federal law what is known as annual assessment work. This simply means that he must perform \$100 worth of labor during each assessment year (12-month period beginning July 1), or in the alternative, he must carry out improvements worth \$100 in value during the same period.

Having thus complied, he retains exclusive possession, control, and use of the area, and may remove the minerals from the land without first proceeding to patent.

Failure to perform the assessment work for any year subjects the claim to relocation, unless work for the benefit of the claim is resumed before a relocation is made. The determination of the question of the right of possession between rival and adverse claimants to the same mineral land is a function committed exclusively to the courts.

Abuses under the mining laws

The Committees on Interior and Insular Affairs of both the House and Senate have in the past several years been made increasingly aware of the abuses under the general mining laws by those persons who locate mining claims on public lands for purposes other than that of legitimate mining activity.

Because of the widespread and common occurrence in nature of certain materials named in the Materials Act of 1947, and greatly increased public interest in mining brought on by the "boom" in

uranium and other fissionable source materials, these abuses have multiplied in number in the past few years.

Numerous examples have been cited describing the activities of persons using the guise of mining locations for nonmining purposes, and the results of such activities:

The mining laws are sometimes used to obtain claim or title to valuable timber actually located within the claim boundaries. Frequently, whether or not the locator so intends, such claims have the effect of blocking access-road development to adjacent tracts of merchantable Federal timber, or to generally increase costs of administration and management of adjacent lands. The fraudulent locator in national forests, in addition to obstructing orderly management and the competitive sale of timber, obtains for himself high-value, publicly owned, surface resources bearing no relationship to legitimate mining activity.

Mining locations made under existing law may, and do, whether by accident or design, frequently block access: to water needed in grazing use of the national forests or other public lands; to valuable recreational areas; to agents of the Federal Government desiring to reach adjacent lands for purposes of managing wild-game habitat or improving fishing streams so as to thwart the public harvest and proper management of fish and game resources on the public lands generally, both on the located lands and on adjacent lands.

The ingenuity of American citizens which has made our Nation strong has also operated to develop new and better ways of abusing public land resources through obtaining color of title under the mining law.

Some locators in reality, desire their mining claims for commercial enterprises such as filling stations, curio shops, cafes, or for residence or summer camp purposes. If application is made for residence or summer camp purposes under Federal law other than the mining laws, sites usually embrace small tracts, that is, 5-acre tracts; on the other hand, mining locations provide for control and utilization of approximately 20-acre tracts. Fraudulent locators prefer 20 acres to 5 acres.

Under existing law, fishing and mining have sometimes been combined in another form of nonconforming use of the public lands: a group of fisherman-prospectors will locate a good stream, stake out successive mining claims flanking the stream, post their mining claims with "No trespassing" signs, and proceed to enjoy their own private fishing camp. So too, with hunter-prospectors, except that their blocked-out "mining claims" embrace wildlife habitats; posted, they constitute excellent hunting camps.

The effect of nonmining activity under color of existing mining law should be clear to all: a waste of valuable resources of the surface on lands embraced within claims which might satisfy the basic requirement of mineral discovery, but which were, in fact, made for a purpose other than mining; for lands adjacent to such locations, timber, water, forage, fish and wildlife, and recreational values wasted or destroyed because of increased cost of management, difficulty of administration, or inaccessibility; the activities of a relatively few pseudominers reflecting unfairly on the legitimate mining industry.

Problems faced in developing corrective legislation

Problems raised by abuses under the mining laws have for sometime been recognized by the legitimate mining industry, by the Federal agencies responsible for administration of the public's resources; by private groups and individuals sincerely interested in wise conservation and utilization of all of our surface and subsurface resources.

If fraudulent locations are made, under present law the United States has the right to refuse patents (if application is made), or to attack such locations in court.

Modification of presently authorized administrative action alone does not appear the answer. Presently available remedies are time-consuming, are costly, and, in the end, not conclusive. Where a location is based on discovery, it is extremely difficult to establish invalidity on an assertion by the United States that the location was, in fact, made for a purpose other than mining.

If locations must be proven fraudulent in court before dispossession, the mining laws must be so drawn or so framed as to make clear to locators what can and what cannot be done. On the other hand, continual interference by Federal agencies in an effort to overcome this difficulty would hamper and discourage the development of our mineral resources, development which has been encouraged and promoted by Federal mining law since shortly after 1800.

Congress and responsible Federal agencies have recognized this need for a balance between competing surface and subsurface demands, as have spokesmen outside of the Federal Government.

The American Mining Congress, a national organization composed of both large and small producers of all metals and minerals mined in the United States, included the following statement in its declaration of public land policy adopted at the annual meeting in San Francisco in September 1954:

We believe * * * that suitable amendments can be made in the general mining laws which, with proper use of available procedures, will simplify enforcement and minimize bad-faith attempts through pretended mining locations to serve objectives other than the discovery and development of minerals. We believe that this can be accomplished in a manner which will protect the incentive and reward now inherent in the mining laws.

The nonprofit, noncommercial, educational American Forestry Association, with more than 25,000 members, echoes this industry position. With some 800 natural-resource leaders present, the Fourth American Forest Congress, in October 1953, adopted by an overwhelming referendum vote of the association as section III D, of its new program for American forestry, under the heading "Mining on Public Lands," this language:

Efficient management of many millions of acres of Federal public lands, including the discovery and development of new or known mineral resources, is in the public interest. The legitimate miner and prospector should be encouraged to carry on such work. However, widespread abuses under the existing mining laws as a means of acquiring Government lands for other than mining purposes should be stopped. We therefore recommend that Congress revise the Federal mining laws to prevent their abuse by claimants or patentees who use their claims to tie up more valuable timber or other resources than they legitimately need to develop the minerals.

With this agreement on the end sought to be achieved by remedial legislation there has not always been agreement on what means should be employed to achieve that end.

There is, however, agreement that any corrective legislation providing for multiple use of the surface of the same tracts of public lands, compatible with unhampered subsurface resource development, must be aimed at—

First, prohibiting location of mining claims for any purpose other than prospecting, mining, processing, and related activities;

Second, providing for conservation and utilization of timber, forage, and other surface resources on mining claims, and on adjacent lands; and

Third, accomplishing these desirable ends without materially changing the basic concepts and principles of the general mining laws.

H. R. 5891 is, in the view of the Committee on Interior and Insular Affairs, responsive to the need for corrective action outlined.

EXPLANATION OF THE BILL, H. R. 5891

H. R. 5891 would amend the Materials Act of 1947 by barring future locations under the mining laws for certain materials commonly occurring throughout the United States, would extend the act's operations to national forest lands, and would give to the Secretary of Agriculture Materials Act administrative responsibility for lands under his jurisdiction.

The bill would also amend the general mining laws by defining the rights of locators to surface resources prior to patent for locations hereafter made; would establish procedures for more efficient management and administration of the surface resources on mining locations hereafter made; and would permit quieting of title to surface resources on locations made prior to the effective date of the act through procedures established in the act.

1. Amendment of Materials Act

Section 1 of the reported bill when read together with section 3 of the bill would amend section 1 of the act of July 31, 1947 (61 Stat. 681; 43 U. S. C. 1185) to remove from the purview of the mining laws location and removal thereunder of common sand, stone, gravel, pumice, pumicite, and cinders. In the future, these commonly occurring materials cannot be the object of location and removal under the general mining law, but will be subject to disposal under the Materials Act.

The Secretary of Agriculture is given, by section 1, the same authority with respect to mineral materials and vegetative materials located on lands under his jurisdiction as that which the Secretary of the Interior has with respect to lands under his jurisdiction.

The provisions of section 1 of the 1947 act, as thus amended, will, by the terms of this bill, apply in the future to national forest and title III Bankhead-Jones lands, which lands are already subject to the general mining laws.

The provisions of section 1 of the 1947 act will remain inapplicable to national parks and national monuments or to Indian lands, or lands set aside or held for the use or benefit of Indians, including lands withdrawn for Indian use by Executive order.

Section 1 of the bill applies only to locations made after enactment, does not affect rights under existing valid mining claims.

2. *Receipts from materials disposal*

Section 2 of H. R. 5891 would amend section 3 of the 1947 act (43 U. S. C. 1187) to provide that moneys received from the disposal of materials thereunder shall be subject to disposition under the same provisions as moneys received from the sale of public lands, except that moneys received from the disposal of materials by the Secretary of Agriculture would be disposed of in the same manner as are other receipts from the lands from which the materials are removed.

Receipts from disposal of materials from Alaska school section lands will be treated as income from such lands is presently treated.

3. *Removal of common materials from mining location*

Section 3 of the bill specifically states that a deposit of common varieties of sand, stone, gravel, pumice, pumicite, or cinders shall not be deemed a valuable mineral deposit within the meaning of the mining laws so as to give effective validity to any mining claim hereafter located under such mining laws.

Attention is called to two additional clauses contained in this section.

The proviso in this section reading—

* * * nothing herein contained shall affect the validity of any mining location based upon discovery of some other mineral occurring in or in association with such a deposit—

has been incorporated in the bill to make clear the committee intent to not preclude mining locations based on discovery of some mineral other than a common variety of sand, stone, etc., occurring in such materials, for example, a mining location based on a discovery of gold in sand or gravel.

The last sentence of this section declares that—

“Common varieties” as used in this act does not include deposits of such materials which are valuable because the deposit has some property giving it distinct and special value * * * ,

which language would exclude materials such as limestone, gypsum, etc., commercially valuable because of “distinct and special” properties.

Finally, this section contains the clause—

* * * and does not include so-called “block pumice” which occurs in nature in pieces having one dimension of two inches or more,

which clause recognizes a class of pumice having distinct and special properties.

Section 3 of the bill applies only to locations made after enactment, does not affect rights under existing valid mining claims.

4. *Rights of future locators to surface resources*

Section 4 of the bill delineates the rights, limitations, and restrictions which would apply to any unpatented mining claim located after the effective date of the act.

Subsection (a) specifically provides that, prior to issuance of patent, no mining claim hereafter located could be used for any purpose other than prospecting, mining, or processing operations and uses reasonably incident thereto. In short, this subsection recognizes essential rights—mining claims can, in the future, be used for activities related to prospecting, mining, processing and related activities, though not for unrelated activities.

Subsection (b) of section 4 provides that hereafter located claims under the mining laws shall be subject, prior to patent issuance, to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof, except mineral deposits subject to location under the mining laws.

This subsection would also make such claims subject, prior to issuance of patent, to the right of the United States, its permittees and licensees, to use so much of the location surface as may be necessary for access to adjacent land.

With respect to the reservations in the United States to use of the surface and surface resources as set out in the two preceding paragraphs attention is called to the proviso which qualifies them:

* * * any use of the surface of any such mining claim by the United States, its permittees, or licensees, shall be such as not to endanger or materially interfere with prospecting, mining, or processing operations or uses reasonably incident thereto.

This language, carefully developed, emphasizes the committee's insistence that this legislation not have the effect of modifying long-standing essential rights springing from location of a mining claim. Dominant and primary use of the locations hereafter made, as in the past, would be vested first in the locator; the United States would be authorized to manage and dispose of surface resources, or to use the surface for access to adjacent lands, so long as and to the extent that these activities do not endanger or materially interfere with mining, or related operations or activities on the mining claim.

Subsection (c) of section 4 of the bill specifically imposes restrictions on the locator's use of surface resources not related to mining or related activities.

It prohibits removal or use, by the mining claimant, of timber or other surface resources made subject, by subsection (b) of section 4, to management and disposition by the United States; again, it will be noted—

Except to the extent required for the mining claimant's prospecting, mining, or processing operations and uses reasonably incident thereto, or for the construction of buildings or structures in connection therewith, or to provide clearance for such operations or uses, or to the extent authorized by the United States * * *.

This language, read together with the entire section, emphasizes recognition of the dominant right to use in the locator, but strikes a balance, in the view of the committee, between competing surface uses, and surface versus subsurface competing uses.

Finally, subsection (c) requires that any timber cutting by the mining claimant, other than that to provide clearance, shall be done in accordance with sound principles of forest management.

The foregoing rights, reservations, limitations, and restrictions apply only to claims hereafter located, and operate only prior to issuance of patent.

After patent, the patentee, as under traditional law which has existed since 1872, acquires full title to the mining claim and its resources, surface, and subsurface. As members will understand, acquisition of patent requires compliance with the mining laws as to location, performance of assessment work, payment to the United States of the purchase price, and a determination by the Department of the Interior as to claim validity and full compliance with the law.

5. Procedure for resolving title uncertainties on claims located prior to date of the act

Section 5 of the bill would establish a procedure for determining expeditiously title uncertainties resulting from the existence of abandoned, invalid, dormant, or unidentifiable mining claims, located prior to the enactment of the bill.

At the present time, agencies administering federally owned lands encounter many difficulties because of the presence of unpatented mining claims the existence of which they may not even be aware. If section 4 of H. R. 5891 is to have the desired effect upon management and use of surface resources, it was concluded the section 5 provisions are necessary to identify which unpatented claims will be subject to its provisions; the in rem procedure established would permit a determination of those valid claims existing prior to enactment with respect to which claimants are asserting surface rights adverse to the United States.

The committee understands that this section does not impair authority under existing law to declare mining claims null and void for failure to comply with provisions of law governing such claims, and that nothing in this section or elsewhere in the bill would prevent the taking by the United States of any mining claim under the right of eminent domain. ✓

Proceeding in a manner similar to that provided in the act of August 13, 1954 (Public Law 585, 83d Cong., 2d sess.; 68 Stat. 708), the Secretary of the Interior, at the request of the Federal department or agency having the responsibility for administering the surface of United States lands in a given area, shall initiate action for a determination of surface rights thereto. Under this procedure, a holder of a claim located prior to enactment could assert and establish his rights in the lands covered by his claim, and such claim would be unaffected by the proceeding.

If such a claimant fails to establish his rights, or fails to assert his rights, or if he voluntarily waives his rights to the surface, he will be in the same position as a holder of a claim located after enactment of this bill.

The procedure does not affect the right of a claimant to apply for patent, and if patent is granted he would acquire the same title as he would under the existing law. ✓

Initiating proceedings.—Subsection (a) of section 5 would permit setting in motion this chain of events: the responsible Federal administrator would file with the Secretary of the Interior a request for publication of notice to mining claimants for the determination of surface rights to a described area.

The bill requires that such request be accompanied by affidavits of persons who had examined the lands involved in an effort to ascertain whether or not any persons were in possession of, or engaged in working, the lands. The affidavit would state the names and addresses of all persons so found, or if none were found, a statement to that effect.

It is further required that there accompany such request the certificate of an attorney, a title abstractor, or a title or abstract company, based upon an examination of tract indexes in the county office of record, setting forth the name of any person appearing in those records

as having an interest in the lands involved under an unpatented mining claim.

Notice by publication, and registered mail, or in person.—Upon receipt of such request, accompanied by the required affidavits and certificate of records abstract, the Secretary of the Interior, at the expense of the requesting department or agency, will publish notice to mining claimants in a newspaper of general circulation in the county in which the lands involved are situated.

If published in a daily newspaper, the bill requires publication in the Wednesday issue for 9 consecutive weeks; if in a weekly paper, in 9 consecutive issues; if in a semiweekly or triweekly paper, in the issue of the same day of each week for 9 consecutive weeks.

In addition, each person shown by name and address in the affidavits required will by registered mail or in person receive, within 15 days after first publication, a copy of the published notice; so too will persons whose names and addresses are set out in the required certificate of records abstract, and those filing requests for such notices under subsection (d) of section 5.

Summary of notice requirements.—Summarized, the detailed requirements of subsection (a) of section 5 as to notice of pendency of the "quiet title" proceeding would: require a preexamination of the lands, to ascertain, if possible, any parties in possession. Notice must be published in a newspaper of general circulation in the county in which the lands involved are situated. A copy of the notice must be personally delivered or sent by registered mail: (1) To each person found to be in possession or engaged in working the lands involved in the proceeding, and (2) to each person who has filed in the county office of record a request for such notice as contemplated under subsection (d), and a copy of the notice must be mailed by registered mail to each person who is shown by a title search to have an interest in the lands.

Failure to assert rights, effect.—Subsection (b) of section 5 establishes a time deadline for assertion of rights to lands involved, and spells out the consequences of failure on the part of claimants to act.

Any person asserting an unpatented mining claim in lands involved would be required to submit, within 150 days from the date of first publication, a statement setting forth pertinent information as to his claim.

Any claimant failing to submit such a statement would be conclusively deemed, except as provided in subsection (e) of section 5:

(1) to have waived and relinquished any right, title, or interest under such mining claim contrary to or not in conflict with the limitations or restrictions specified in section 4 of the act as to hereafter located unpatented mining claims;

(2) to have consented that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 4 as to hereafter located unpatented mining claims; and

(3) to have precluded any right in himself to thereafter, prior to issuance of patent, assert any right or title to, or interest in or under, such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of the act as to hereafter located unpatented mining claims.

Hearing on determination of rights.—Subsection (c) of section 5 provides that if a mining claimant asserts rights contrary to or in

conflict with the provisions relating to the use and management of surface resources, as set forth in section 4 of this bill, the Secretary of the Interior shall hold a hearing to determine the validity of such rights.

Such hearings would, under the bill, follow the established general procedures and rules of practice of the Department of the Interior with respect to contests or protests affecting public lands.

To limit the length of the hearing and cost of transcripts, the bill limits any single hearing to a maximum of 20 mining claims, unless the parties otherwise stipulate.

Assurance of receiving notice.—Subsection (d) of section 5 permits a mining claimant to assure himself in advance of receiving notice of a proposed proceeding affecting his claim if the claimant files in the county office of record a request for a copy of any such notice, giving his name, address, and certain data as to each unpatented mining claim under which he asserts rights.

Effect of Federal failure to notify.—Subsection (e) of section 5 provides that the publication of notice shall be wholly ineffectual as to any person entitled to be served with, or to be mailed a copy of, the published notice, if the notice is not in fact so served upon or mailed to him.

6. *Waiver or relinquishment of surface rights*

Section 6 has as its objective permitting and encouraging cooperation and avoidance of controversy.

It permits the owner of any unpatented mining claim, heretofore located, if he so desires, to waive and relinquish all rights thereunder which are contrary to or in conflict with the limitations and restrictions specified in section 4; effect of such waiver and relinquishment would, in other words, result in such a claim having a surface rights status applicable to mining claims hereafter located.

This section specifically declares that such a waiver or relinquishment will not constitute any concession as to the validity of the owner's claim, or as to the date of priority of rights under the claim.

7. *General construction section*

Section 7 restates the scope of the bill to make it clear that—

(1) the bill will in no way limit or restrict existing rights under any valid mining claim except insofar as those rights are limited or restricted in actions taken pursuant to sections 5 by operation of section 5 or section 6; nor will

(2) the bill authorize the inclusion in patents issued for mining claims after the date of the act of any limitations or restrictions not otherwise authorized by law.

COMMITTEE AMENDMENTS TO H. R. 5891

The committee has adopted five amendments to the printed bill, as follows:

Amendment 1.—Insertion, after the words "United States", where they first occur in the first full sentence of section 1 of the words:

including for the purpose of this Act land described in the Acts of August 28, 1937 (50 Stat. 874) and of June 24, 1954 (68 Stat. 270).

This amendment would make the provisions of sections 1 and 2 specifically applicable to the revested Oregon and California Railroad

grant lands and the reconveyed Coos Bay Wagon Road grant lands, which otherwise would be excepted from the provisions of sections 1 and 2.

Amendment 2.—At the end of the last sentence in section 1, striking out the word “Agriculture.”, and inserting in lieu thereof:

Agriculture: *Provided*, That, notwithstanding any other provisions of law, such leases or permits may be issued for lands administered for national park, monument, and wildlife purposes only when the President, by Executive order, finds and declares that such actions necessary in the interests of national defense.

This proviso, identical to one included in the act of August 13, 1954 (Public Law 585, 83d Cong., 2d sess.; 68 Stat. 708), makes clear that lands administered for national park, monument, and wildlife purposes would be subjected to entry under the Materials Act of 1947 only after the President had, by Executive order, found and declared such action necessary in the interests of national defense.

Amendment 3.—Insertion, after the words “and except” following the second full clause of the quoted material in section 2 of the words:

that revenues from the lands described in the Act of August 28, 1937 (50 Stat. 874) and the Act of June 24, 1954 (68 Stat. 270) shall be disposed of in accordance with said Acts and except.

This amendment also refers specifically to the revested Oregon and California Railroad grant lands and the reconveyed Coos Bay Wagon Road grant lands, and provides that revenues from Materials Act activities on these lands would be disposed of as are other revenues from them; this is entirely consistent with the language in the bill providing for disposal of revenues on lands under the Department of Agriculture, and Alaska school section lands.

Amendment 4.—In the first line of subsection (a) of section 5, striking the words “The Secretary of the Federal Department” and substituting the words: “The head of a Federal department or agency”.

This amendment is clarifying only; later language of section 5 clearly indicates that its provisions apply to all departments and agencies, while the phraseology in the first sentence of the printed bill might have been interpreted as limiting the section’s scope to the executive departments only.

Amendment 5.—Striking the period after the word “law” at the end of the last sentence in section 7, and inserting the words:

or to limit or repeal any existing authority to include any limitation or restriction in any such patent.

Certain existing statutes limit or restrict mining activities upon lands owned by the United States, as for example, the act of April 8, 1948 (62 Stat. 162), which opened the revested Oregon and California Railroad grant lands and the reconveyed Coos Bay Wagon road grant lands to exploration, location, entry, and disposition under the general mining laws, but which limited—with respect to timber on such lands—the rights of persons making entry on those lands.

Reference to “* * * any limitation or restriction” is also of significance in view of the provisions of two congressional acts: the act of August 12, 1953 (Public Law 250, 83d Cong., 1st sess.; 67 Stat. 539), and the act of August 13, 1954 (Public Law 585, 83d Cong., 2d sess.; 68 Stat. 708).

Both of these acts operate, within the terms thereof, to create authority for, and to establish procedure whereby, there is reserved to the United States all Leasing Act minerals; further, they operate

to reserve to the United States, its lessees, permittees, and licensees, within the limits specifically set out, the right to entry upon and removal from mining locations (prior to, and after patent) of Leasing Act minerals. The right to use mining locations, or restricted mineral patent lands falling within the scope of the acts is similarly reserved to the United States, its lessees, etc., for access to adjacent lands for mineral leasing activities.

The committee understands that the effect of its amendment to section 7 of the bill makes clear that this saving language is broad enough to include and leave unaffected, the rights of reservation to the United States created by Public Law 250 and Public Law 585 of the 83d Congress.

SUPPORT FOR H. R. 5891

The language of the bill, as reported, has been developed with the support and cooperation of both the Departments of Agriculture and Interior.

Included in a long list of national, State, and local groups and individuals supporting this legislation are the following:

American Mining Congress; American Federation of Labor; Independent Timber Farmers of America; The American Forestry Association; Western Lumber Manufacturers; National Wildlife Federation; Sports Afield; National Lumber Manufacturers Association; National Farmers Union; Wildlife Management Institute; the Izaak Walton League of America; the National Grange; Northwest Mining Association; Northern Rocky Mountain Sportsmen's Association; Western Forest Industries Association; Western Forestry and Conservation Association; United States Chamber of Commerce; Society of American Foresters; and the American Nature Association.

Three States—California, Oregon, and Arizona—through conservation organizations, have endorsed its enactment, along with numerous other industry, labor, civic, educational, conservation, and hunting and fishing organizations and individuals.

The favorable reports of the Departments of Interior and Agriculture are set out following.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., May 17, 1955.

HON. CLAIR ENGLE,
*Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.*

MY DEAR MR. ENGLE: This is in reply to your request for the views of this Department on H. R. 5561, H. R. 5577, and H. R. 5891, all of which are bills to amend the act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for the multiple use of the surface of the same tracts of the public lands and for other purposes. H. R. 5561 and H. R. 5891 are identical, and H. R. 5577 differs from them in only one respect. All references in this report are to H. R. 5561 unless otherwise noted.

We recommend that H. R. 5561 be enacted, and suggest that it be amended as indicated hereinafter.

H. R. 5561, if enacted, would make a number of significant changes in existing laws governing mining and the disposal of materials on the public lands particularly insofar as surface uses and rights are concerned. Briefly summarized, the bill may be said to provide as follows: (1) the first three sections would exclude certain minerals from among those on which claims under the mining laws may be based, and would provide a means for the disposal of the materials so excluded; (2) section 4 would limit the rights of a holder of an unpatented mining claim hereafter located to the use of the surface and surface resources; and (3) sections

5 and 6 would provide a procedure for the clarification of surface rights appurtenant to mining claims existing at the time of the bill's enactment. Existing rights would be protected by section 7.

Section 1 of the bill would amend section 1 of the act of July 31, 1947 (61 Stat. 681; 43 U. S. C., sec. 1185) to add certain common minerals to the materials subject to disposition under that act. Also, the Secretary of Agriculture would be given the same authority with respect to mineral materials, including, but not limited to, sand, stone, gravel, pumice, pumicite, cinders, and clay, and vegetative materials, including, but not limited to, yucca, manzanita, mesquite, cactus, and timber or other forest products, located on lands under his jurisdiction as that which the Secretary of the Interior has with respect to lands under his jurisdiction. The provisions of that section would remain inapplicable to national parks and monuments and to Indian lands, but would in future be applicable to national forests. The provisions of section 1 of H. R. 5577 differ in that they would also be inapplicable to the revested Oregon and California Railroad grant lands and the reconveyed Coos Bay Wagon Road grant lands.

Section 2 would amend section 3 of that act, as amended (43 U. S. C., sec. 1187) to provide that moneys received from the disposal of materials thereunder would be subject to disposition under the same provisions as moneys received from the sale of public lands, except that moneys received from the disposal of materials by the Secretary of Agriculture would be disposed of in the same manner as are other receipts from the lands from which the materials are removed. Moneys received from the disposal of materials from school section lands in Alaska would be treated as income from such school section lands is ordinarily treated.

Section 3 specifically states that a deposit of common varieties of sand, stone, gravel, pumice (except block pumice), pumicite, or cinders shall not be deemed a valuable mineral deposit within the meaning of the mining laws so as to give effective validity to any claim located thereunder.

Section 4 provides that, prior to the issuance of patent, no mining claim located subsequent to the enactment of H. R. 5561 could be used for any purpose other than prospecting, mining, or processing operations, and uses reasonably incident thereto, and all rights under the claim would be subject to the right of the United States to manage and use the surface; moreover, prior to the issuance of patent, no claimant could sever, remove or use vegetative or other surface resources, except to the extent required by mining operations or uses reasonably incident thereto.

At the present time, agencies administering federally owned lands encounter many difficulties in administering the lands under their jurisdiction because of the presence of unpatented mining claims of the existence of which they may not even be aware. This undesirable situation would be alleviated by the procedure which section 5 of H. R. 5561 would provide for determining expeditiously title uncertainties resulting from the existence of abandoned, invalid, dormant, or unidentifiable mining claims, located prior to the enactment of the bill. Not only is it necessary that some means be established for the expeditious determination of these uncertainties resulting from the existence of such claims, but, if section 4 of this bill is to have the desired effect upon the management and use of surface resources of unpatented mining claims, a procedure to identify which unpatented claims will be subject to its provisions is necessary. In our opinion, the procedure to be established by section 5 would answer this need, for it would permit a determination of those valid claims existing prior to the enactment of the bill with respect to which claimants are asserting surface rights adverse to the United States. We do not interpret the provisions of section 5 as impairing authority under existing law to declare mining claims null and void for failure to comply with provisions of law governing such claims. We have also assumed that nothing in the bill would prevent the taking by the United States of any mining claims under the right of eminent domain.

The procedure which section 5 would establish would commence with the Secretary of any Federal department, responsible for administering the surface resources of any lands belonging to the United States, filing with the Secretary of the Interior a request for publication of notice to mining claimants for the determination of surface rights. The filing of a request of that nature would be accompanied by affidavits of persons who had examined the lands involved in an effort to ascertain whether or not any persons were in possession of or engaged in working the lands; the affidavits would state the names and addresses of all persons so found or, if none were found, would state that fact.

The request would also be accompanied by the certificate of an attorney, a title abstractor, or a title or abstract company, based upon an examination of tract indexes in the county office of record, setting forth the name of any person

appearing in those records as having an interest in the lands involved under an unpatented mining claim. The Secretary of the Interior would, upon the receipt of such a request, publish notice to mining claimants in a newspaper having general circulation in the county wherein the lands involved are situated. Any person asserting an unpatented mining claim in those lands would be required to submit, within 150 days, a statement setting forth pertinent information as to his claim, and any claimant failing to submit such a statement would be conclusively deemed to have waived any rights to his claim which would be contrary to the limitations set forth in section 4 of the bill with respect to the use of the surface and to have consented to the subjection of his claim to the provisions of that section. Upon publication of notice in a newspaper, a copy of that notice would be delivered, either in person or by registered mail, to each person whose name and address appear in the affidavits and certificates submitted with the request for publication.

The bill also would provide a method by which any person desirous of receiving notice with respect to any particular lands might file a request for such notice in the appropriate county office of record. If any statement should be filed by a claimant in response to the publication or delivery of notice, the Secretary of the Interior would hold hearings to determine the validity and effectiveness of any right or title to that mining claim, or interest in or under that claim, which is contrary to or in conflict with the provisions relating to the use and management of surface resources, set forth in section 4 of the bill. Such hearings would follow the established general procedures and rules of practice of the Department of the Interior with respect to contests or protests affecting public lands. If, with respect to any person, the requirements as to personal delivery or mailing of notice should not be complied with, that person's rights would be affected in no way by the publication of notice.

Section 6 provides that, while any owner of an unpatented mining claim may waive or relinquish all rights thereunder contrary to or in conflict with the restrictions of section 4, such a waiver or relinquishment will not constitute any concession as to the validity of his claim or as to the date of priority of rights under that claim.

Section 7 provides that the bill will in no way limit or restrict existing rights under any valid mining claim except insofar as those rights are limited or restricted in actions taken pursuant to sections 5 and 6, nor will the bill authorize the inclusion in patents thereafter issued for mining claims of any limitations or restrictions not otherwise authorized by law.

H. R. 5561 is designed to meet a situation which has arisen because of more intensive Federal use of the public lands in recent years. Under the existing mining laws various abuses have been possible. For example, it has been possible for persons who have unpatented claims under the mining laws to prevent orderly management and disposition of valuable timber and other surface resources, and also to block access to such resources on unlocated Federal land while paying little or no attention to mining. Moreover, many claims have been based on deposits of the mineral materials listed in section 1 which, although technically of sufficient value to justify a location, are actually of minor worth as compared to other natural resources of the land. Another example of these abuses may be seen in the fact that it has been possible to acquire a color of right, through a mining location, for nonmining purposes, such as summer homesites.

This bill is designed to strike at these abuses, which violate the spirit of the mining laws. The bill provides that deposits of common minerals such as ordinary varieties of sand, stone, gravel, pumice, pumicite, and cinders shall not be deemed valuable mineral deposits within the meaning of the mining laws. Secondly, it prohibits the use of a claim for any nonmining purpose prior to the issuance of patent.

The type of practice against which this bill is directed has drawn the disapproval of the mining industry generally, conservation groups, and other public-land users. The national interest in encouraging the discovery of minerals dictates that the mining industry should have a continued opportunity to locate mining claims, to mine minerals found there, to discover and develop commercial deposits, and, if fortunate, to make a profit, but the national interest is not served by preventing the use of the surface of unpatented claims for other desirable uses which do not substantially interfere with mining operations and related activities. This legislation is based upon this sound premise, in our view.

At the same time as the proposed legislation would meet the wishes of the mining industry, it would also give full recognition to the vital importance of the forest and range resources of the public lands and the national forests, for the

bill provides for the multiple use of the surface of mining claims and thus permits the conservation and wise use of all surface resources in the public interest.

We have discussed above the need for a procedure for establishing the existence of unpatented mining claims and for determining the respective rights of the United States and holders of unpatented mining claims. Certainly, the procedure which section 5 would establish would eliminate many of the problems relating to ownership and management of surface resources which arise in the case of Government timber sales, grazing permits, and watershed and recreational development. Under the procedure which would be provided by this bill, it is hoped that an area in which a timber sale, for example, was contemplated could be subjected to a conclusive determination of surface rights within a reasonably short time.

We believe that the bill should be amended so that the provisions of sections 1 and 2 would be specifically applicable to the revested Oregon and California Railroad grant lands and the reconveyed Coos Bay Wagon Road grant lands. The other sections of H. R. 5561 are already applicable to these lands, and there is no reason why these lands should not be subject to the same provisions of law as other public lands in these respects. We suggest, therefore, that there be inserted immediately after "United States," at page 2, line 2, the following: "including for the purposes of this Act land described in the Acts of August 28, 1937 (50 Stat. 874) and of June 24, 1954 (68 Stat. 270)," For the same reason, we also suggest that there be inserted, immediately after "except" at page 3, line 22, the following: "that revenues from the lands described in the Act of August 28, 1937 (50 Stat. 874) and the Act of June 24, 1954 (68 Stat. 270) shall be disposed of in accordance with said Acts and except".

As we have pointed out above, the provisions of section 1 of H. R. 5577 only are inapplicable to the Oregon and California Railroad and the Coos Bay Wagon Road lands. We suggest, therefore, with respect to H. R. 5577 that the following words, beginning at page 3, line 4, be deleted: "or to lands described in the Act of August 28, 1937 (50 Stat. 874), or in Public Law 426, Eighty-third Congress."

It is also suggested that the language used at the beginning of section 5 requires clarification. Though the later language of section 5 clearly indicates that its provisions apply to all departments and agencies, the phraseology in the first sentence of the section could well be interpreted as limiting the section's scope to the executive departments only. We suggest, therefore, that all of line 3, page 6, be deleted and the following substituted in its place "The head of a Federal department or agency."

Certain existing statutes limit or restrict mining activities upon lands owned by the United States, as, for example, the act of April 8, 1948 (62 Stat. 162), which opened the revested Oregon and California Railroad grant lands and the reconveyed Coos Bay Wagon Road grant lands to exploration, location, entry, and disposition under the general mining laws, but which limited, with respect to the timber on those lands, the rights of persons making entry on those lands. We believe it essential that nothing in H. R. 5561 be interpreted as repealing or amending any of those laws imposing such special limitations or restrictions. Though the existing language of the bill may afford such a guaranty, we suggest that the period at the end of section 7 be replaced by a comma and the following added: "or to limit or repeal any existing authority to include any limitation or restriction in any such patent."

The Bureau of the Budget has advised that there is no objection to the presentation of this report to your committee.

Sincerely yours,

FRED G. AANDAHL,
Assistant Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
Washington, D. C., May 17, 1955.

Hon. CLAIR ENGLE,
*Chairman, Committee on Interior and Insular Affairs,
United States House of Representatives.*

DEAR CONGRESSMAN ENGLE: Reference is made to your request of May 11 for a report on H. R. 5891, a bill to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands and for other purposes.

We strongly recommend early enactment of this bill with one clarifying amendment as subsequently described.

H. R. 5891 is identical to S. 1713, H. R. 5561, 5563, 5572, 5595, 5742, and almost identical to H. R. 5577.

This bill would apply to all lands of the United States subject to the general mining laws. Its major provisions are:

(1) Common varieties of sand, stone, gravel, pumice, pumicite, and cinders would be removed from the purview of the United States mining laws and made subject to disposal only under the provisions of the Materials Act of July 31, 1947 (61 Stat. 681), by the Secretary of Agriculture for lands under his jurisdiction and by the Secretary of the Interior for other public lands of the United States. This part of the bill is similar to H. R. 230, which was reported by your committee earlier this session and which has passed the House.

(2) Mining claims located after enactment of the bill could not, prior to patent, be used for other than mining purposes without authorization from the United States, and such locations would be subject to the right of the United States to manage and dispose of the vegetative surface resources, to manage other surface resources thereof (except minerals subject to the mining laws), and to use so much of the surface as necessary for such purposes or for access to adjacent land; provided that any use of the surface by the United States, its permittees or licensees, could not endanger or materially interfere with mining uses. Mining claimants could not use surface resources subject to management and disposal by the United States except to the extent required for mining purposes, and any timber cut for such purposes, except for clearance, must be in accordance with sound principles of forest management.

(3) Under a procedure similar to that provided in Public Law 585 of the 83d Congress, the Secretary of the Interior shall, at the request of the Federal department having the responsibility for administering the surface of lands of the United States, initiate action for a determination of surface rights as to a given area. Under this procedure, a holder of a claim located prior to enactment of this bill could assert and establish his rights in the lands covered by his claim, and such claim would be unaffected by the proceeding. If such a claimant fails to establish his rights, or fails to assert his rights, or if he voluntarily waives his rights to the surface, he will be in the same position as a holder of a claim located after enactment of this bill. The procedure does not affect the right of a claimant to apply for patent, and if patent is granted he would acquire the same title as he would under the existing law. ///

We believe this bill, if enacted, would go far toward correcting some of the very difficult problems confronting this Department in its administration of those national forests and title III Bankhead-Jones lands subject to the general mining laws of the United States. We also believe that for the first time an area of agreement has been reached on this problem between the administrators of public lands under the jurisdiction of both the Departments of Interior and Agriculture, representatives of the mining industry, and conservation groups.

The Department of Agriculture desires to encourage legitimate prospecting, and effective utilization and development of mineral resources of the national forests and title III lands. We would not favor legislation which would interfere with such development of minerals nor work hardship on the bona fide prospector or miner. We also recognize that the mining industry does not condone the use of mining claims on the public lands for other than mining purposes.

However, on the national forests the mining laws are sometimes used to obtain claim or title to valuable timber, summer home sites, or lands blocking access to Government timber and to water needed in the grazing use of the national forests.

As of January 1, 1952, there were 36,600 mining patents on the national forests, covering 918,500 acres. Only about 15 percent of these mining patents have been or are commercially successful mines. As of the same date, there were approximately 84,000 claims, covering 2.2 million acres. Only 2 percent of these claims were producing minerals in commercial quantities and probably not more than 40 percent could be considered valid under the requirements of the mining laws. Yet, on these national forest claims, there was tied up over 8 billion feet of commercial sawtimber, valued at about \$100 million which the Government could not sell without consent of the claimant. In other words, national forest timber exceeding in quantity and value that cut from all national forests in any one year is tied up on mining claims and cannot be sold by the Government. The two tables attached to this report supply these basic statistics by States.

The effect of this situation is increased costs of administration, obstruction of orderly management and the competitive sale of timber, and obtaining high-value, publicly owned surface resources by a few individuals at nominal cost.

In the last 3 years there has been a tremendous increase in the number of mining claims on the national forests, principally as the result of prospecting for uranium

and other fissionable materials. For example as of January 1, 1955, it is estimated that there were 166,000 claims on the national forests, covering nearly 4 million acres, or about a 100-percent increase in the past 3 years. At the rate claims are currently being filed, we estimate that by the end of this calendar year there will be about 225,000 mining claims on the national forests. It is also estimated conservatively that there are now over 10 billion board-feet of timber tied up on national forest mining claims, having a current stumpage value of \$112 million.

Following is an estimate of the number of claims and included acreage by States in the national forests as of January 1, 1955.

State	Thousand claims	1955 claims as multiple of 1952 claims	Thousand acres	1955 acreage as multiple of 1952 acreage
Arizona.....	34.3	6.9	684	6.2
California.....	21.0	1.1	602	1.0
Colorado.....	16.7	1.8	375	1.5
Idaho.....	18.4	1.2	408	1.2
Montana.....	14.6	2.1	282	2.1
Nevada.....	5.2	1.8	108	2.3
New Mexico.....	8.7	3.7	223	2.8
Oregon.....	6.7	.9	215	.8
South Dakota.....	4.8	1.9	103	2.0
Utah.....	28.4	3.6	583	3.2
Washington.....	5.3	1.8	94	1.3
Wyoming.....	2.1	2.5	78	2.4
Total.....	166.2	2.0	3,755	1.7

The number of claims is "snowballing" so fast that the situation on the national forests is rapidly getting out of hand. The above summary, for example, shows that there are nearly 7 times as many mining claims in Arizona as 3 years ago, and nearly 4 times as many in New Mexico and Utah. The increase has been large in other States, too. Equitable corrective action as would be provided by H. R. 5891 is urgently needed. It is needed quickly because new claims are being filed at the rate of about 5,000 per month.

We suggest the following be added after the word "except" in line 21, page 3 of H. R. 5891: "that revenues from the lands described in the Act of August 28, 1937 (50 Stat. 874), and the Act of June 24, 1954 (68 Stat. 270), shall be disposed of in accordance with the provisions of said Acts, and except".

The above amendment would make it clear that revenues from O. and C. lands under the administration of the Department of the Interior and lands administered by the Department of Agriculture under the 1954 act will be placed in the O. and C. fund.

To effectively implement the provisions of H. R. 5891, particularly those of section 5, it is estimated that about \$750,000 to \$1 million would be needed annually by this Department for roughly a 10-year period, after which costs would drop to a relatively small amount. After claims located prior to enactment of the bill had been processed in accord with section 5, costs relating to this bill would be limited largely to costs of issuing permits for disposal of materials under the Materials Act. Such costs would be offset in whole or in part by revenues from such permits.

In summary, this Department recommends enactment of H. R. 5891 since it will do much to solve the serious problems presented by mining claims in the management of public lands and resources. It will correct deficiencies in the mining laws and prevent many of the abuses by other than bona fide miners, but it will not obstruct or interfere with bona fide mineral prospecting, mining, and development. The Department is anxious to see these measures taken and strongly endorses this bill. However, H. R. 5891 does not include all of the changes in the mining laws which would be desirable from a good public land management standpoint and some problems would remain with respect to mining on the national forests and title III lands that this bill would not correct.

The Bureau of the Budget advises that from the standpoint of the program of the President there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE, *Acting Secretary.*

Estimated number of unpatented mining claims on the national forests (as of Jan. 1, 1952)

State	Number of claims	Acres	Estimated percent which are producing minerals in commercial quantities	Estimated percent considered valid under the mining laws	Timber on claims	
					Volume (thousand feet, board measure)	1951 value
Arizona.....	5,000	95,400	9.0	22	70,000	\$700,000
California.....	19,640	582,700	.8	30	3,460,000	50,177,000
Colorado.....	9,450	256,009	1.0	37	80,000	368,000
Idaho.....	15,840	355,100	4.3	42	1,170,000	8,425,000
Montana.....	6,860	132,600	1.7	46	85,000	440,000
Nevada.....	2,940	50,700	2.0	60		
New Mexico.....	2,350	81,700	3.0	24	225,000	2,000,000
Oregon.....	7,780	267,300	1.8	55	2,301,000	36,307,000
South Dakota.....	2,600	52,500	4.5	30	81,000	542,000
Utah.....	7,810	185,300	2.0	50	7,000	40,000
Washington.....	2,920	71,700	2.2	52	751,000	4,111,000
Wyoming.....	860	32,900	.6	55	36,000	417,000
Total.....	84,050	2,163,900	2.0	40	8,266,000	103,527,000

Patented mining claims on the national forests (as of Jan. 1, 1952)

State	Number of claims	Acreage	Estimated percent which are or have ever been commercial mining operations	State	Number of claims	Acreage	Estimated percent which are or have ever been commercial mining operations
Arizona.....	1,110	53,370	5	Oregon.....	1,370	26,634	22
California.....	3,068	134,807	14½	South Dakota.....	1,000	74,000	7
Colorado.....	17,000	300,000	12	Utah.....	1,359	57,210	10
Idaho.....	3,203	80,802	28	Washington.....	1,184	20,738	8
Montana.....	5,124	116,575	17½	Wyoming.....	761	17,687	1½
Nevada.....	675	12,205	50				
New Mexico.....	706	24,498	16	Total.....	36,560	918,526	14¾

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 1 OF THE ACT OF JULY 31, 1947 (61 STAT. 681)

【That the Secretary of the Interior, under such rules and regulations as he may prescribe, may dispose of materials including but not limited to sand, stone, gravel, yucca, manzanita, mesquite, cactus, common clay, and timber or other forest products, on public lands of the United States if the disposal of such materials (1) is not otherwise expressly authorized by law, including the United States mining laws, (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. Such materials may be disposed of only in accordance with the provisions of this Act and upon the payment of adequate compensation therefor, to be determined by the Secretary: *Provided, however,* That, to the extent not otherwise authorized by law, the Secretary is authorized in his discretion to permit any Federal, State, or Territorial agency, unit or subdivision, including municipalities, or any person, or any association or corporation not organized for profit, to take and remove, without charge,

materials and resources subject to this Act, for use other than for commercial or industrial purposes or resale. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior or of a State, Territory, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make disposals under this Act only with the consent of such Federal department or agency or of such State, Territory, or local governmental unit. Nothing in this Act shall be construed to apply to lands in any national forest, national park, or national monument or to any Indian lands, or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians.】

The Secretary, under such rules and regulations as he may prescribe, may dispose of mineral materials (including but not limited to, sand, stone, gravel, pumice, pumicite, cinders and clay) and vegetative materials (including but not limited to yucca, manzanita, mesquite, cactus, and timber or other forest products) on public lands of the United States, if the disposal of such mineral or vegetative materials (1) is not otherwise expressly authorized by law, including the United States mining laws, and (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. Such materials may be disposed of only in accordance with the provisions of this Act and upon the payment of adequate compensation therefor, to be determined by the Secretary: Provided, however, That, to the extent not otherwise authorized by law, the Secretary is authorized in his discretion to permit any Federal, State, or Territorial agency, unit or subdivision, including municipalities, or any person, or any association or corporation not organized for profit, to take and remove, without charge, materials and resources subject to this Act, for use other than for commercial or industrial purposes or resale. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department headed by the Secretary or of a State, Territory, county, municipality, water district, or other local governmental subdivision or agency, the Secretary may make disposals under this Act only with the consent of such other Federal department or agency or of such State, Territory, or local governmental unit. Nothing in this Act shall be construed to apply to lands in any national park, or national monument or to any Indian lands, or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians. As used in this Act, the word "Secretary" means the Secretary of the Interior except that it means the Secretary of Agriculture where the lands involved are administered by him for national forest purposes or for the purposes of title III of the Bankhead-Jones Farm Tenant Act or where withdrawn for the purpose of any other function of the Department of Agriculture.

SECTION 3 OF THE ACT OF JULY 31, 1947 (61 STAT. 681), AS AMENDED BY THE ACT OF AUGUST 31, 1950 (64 STAT. 571)

【SEC. 3. All moneys received from the disposal of materials under this Act shall be disposed of in the same manner as moneys received from the sale of public lands, except that moneys received from the disposal of materials from school section lands in Alaska, reserved under section 1 of the Act of March 4, 1915 (38 Stat. 1214; 48 U. S. C., sec. 353), shall be set apart as separate and permanent funds in the Territorial Treasury as provided for income derived from said school section lands pursuant to said Act.】

All moneys received from the disposal of materials under this Act shall be disposed of in the same manner as moneys received from the sale of public lands, except that moneys received from the disposal of materials by the Secretary of Agriculture shall be disposed of in the same manner as other moneys received by the Department of Agriculture from the administration of the lands from which the disposal of materials is made, and except that moneys received from the disposal of materials from school section lands in Alaska, reserved under section 1 of the Act of March 4, 1915 (38 Stat. 1214), shall be set apart as separate and permanent funds in the Territorial treasury, as provided for income derived from said school section lands pursuant to said Act.

Although not specifically required by clause 3 of rule XIII of the Rules of the House of Representatives, the committee sets forth below for information changes in existing law made by the bill, as reported (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change in proposed is shown in roman):

SECTION 1 OF THE ACT OF JULY 31, 1947 (61 STAT. 681)

[That the Secretary of the Interior, under such rules and regulations as he may prescribe, may dispose of materials including but not limited to sand, stone, gravel, yucca, manzanita, mesquite, cactus, common clay, and timber or other forest products, on public lands of the United States if the disposal of such materials (1) is not otherwise expressly authorized by law, including the United States mining laws, (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. Such materials may be disposed of only in accordance with the provisions of this Act and upon the payment of adequate compensation therefor, to be determined by the Secretary: *Provided, however, That, to the extent not otherwise authorized by law, the Secretary is authorized in his discretion to permit any Federal, State, or Territorial agency, unit or subdivision, including municipalities, or any person, or any association or corporation not organized for profit, to take and remove, without charge, materials and resources subject to this Act, for use other than for commercial or industrial purposes or resale. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior or of a State, Territory, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make disposals under this Act only with the consent of such Federal department or agency or of such State, Territory, or local governmental unit. Nothing in this Act shall be construed to apply to lands in any national forest, national park, or national monument or to any Indian lands, or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians.*]

*The Secretary, under such rules and regulations as he may prescribe, may dispose of mineral materials (including but not limited to, sand, stone, gravel, pumice, pumicite, cinders and clay) and vegetative materials (including but not limited to yucca, manzanita, mesquite, cactus, and timber or other forest products) on public lands of the United States, including for the purposes of this Act land described in the Acts of August 28, 1937 (50 Stat. 874), and of June 24, 1954 (68 Stat. 270), if the disposal of such mineral or vegetative materials (1) is not otherwise expressly authorized by law, including the United States mining laws, and (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. Such materials may be disposed of only in accordance with the provisions of this Act and upon the payment of adequate compensation therefor, to be determined by the Secretary: *Provided, however, That, to the extent not otherwise authorized by law, the Secretary is authorized in his discretion to permit any Federal, State, or Territorial agency, unit or subdivision, including municipalities, or any person, or any association or corporation not organized for profit, to take and remove, without charge, materials and resources subject to this Act, for use other than for commercial or industrial purposes or resale. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department headed by the Secretary or of a State, Territory, county, municipality, water district, or other local governmental subdivision or agency, the Secretary may make disposals under this Act only with the consent of such other Federal department or agency or of such State, Territory, or local governmental unit. Nothing in this Act shall be construed to apply to lands in any national park, or national monument or to any Indian lands, or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians. As used in this Act, the word "Secretary" means the Secretary of the Interior except that it means the Secretary of Agriculture where the lands involved are administered by him for national forest purposes or for the purposes of title III of the Bankhead-Jones Farm Tenant Act or where withdrawn for the purpose of any other function of the Department of Agriculture: *Provided, That, notwithstanding any other provisions of law, such leases or permits may be issued for lands administered for national park, monument, and wildlife purposes only when the President, by Executive order, finds and declares that such action is necessary in the interests of national defense.***

SECTION 3 OF THE ACT OF JULY 31, 1947 (61 STAT. 681), AS AMENDED BY THE
ACT OF AUGUST 31, 1950 (64 STAT. 571)

【SEC. 3. All moneys received from the disposal of materials under this Act shall be disposed of in the same manner as moneys received from the sale of public lands, except that moneys received from the disposal of materials from school section lands in Alaska, reserved under section 1 of the Act of March 4, 1915 (38 Stat. 1214; 48 U. S. C., sec. 353), shall be set apart as separate and permanent funds in the Territorial Treasury as provided for income derived from said school section lands pursuant to said Act.】 *All moneys received from the disposal of materials under this Act shall be disposed of in the same manner as moneys received from the sale of public lands, except that moneys received from the disposal of materials by the Secretary of Agriculture shall be disposed of in the same manner as other moneys received by the Department of Agriculture from the administration of the lands from which the disposal of materials is made, and except that revenues from the lands described in the Act of August 28, 1937 (50 Stat. 874) and the Act of June 24, 1954 (68 Stat. 270) shall be disposed of in accordance with said Acts and except that moneys received from the disposal of materials from school section lands in Alaska, reserved under section 1 of the Act of March 4, 1915 (38 Stat. 1214), shall be set apart as separate and permanent funds in the Territorial treasury, as provided for income derived from said school section lands pursuant to said Act.*



84TH CONGRESS
1ST SESSION

H. R. 5891

[Report No. 730]

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 1955

Mr. ROGERS of Texas introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

JUNE 6, 1955

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend the Act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That section 1 of the Act of July 31, 1947 (61 Stat. 681)
4 is amended to read as follows:

5 “SEC. 1. The Secretary, under such rules and regulations
6 as he may prescribe, may dispose of mineral materials (includ-
7 ing but not limited to, sand, stone, gravel, pumice, pumicite,
8 cinders and clay) and vegetative materials (including but
9 not limited to yucca, manzanita, mesquite, cactus, and timber
10 or other forest products) on public lands of the United

1 States, including for the purposes of this Act land described
2 in the Acts of August 28, 1937 (50 Stat. 874) and of June
3 24, 1954 (68 Stat. 270), if the disposal of such mineral or
4 vegetative materials (1) is not otherwise expressly author-
5 ized by law, including the United States mining laws, and
6 (2) is not expressly prohibited by laws of the United States,
7 and (3) would not be detrimental to the public interest.
8 Such materials may be disposed of only in accordance with
9 the provisions of this Act and upon the payment of adequate
10 compensation therefor, to be determined by the Secretary:
11 *Provided, however,* That, to the extent not otherwise author-
12 ized by law, the Secretary is authorized in his discretion to
13 permit any Federal, State, or Territorial agency, unit or subdi-
14 vision, including municipalities, or any person, or any associa-
15 tion or corporation not organized for profit, to take and remove,
16 without charge, materials and resources subject to this Act,
17 for use other than for commercial or industrial purposes or
18 resale. Where the lands have been withdrawn in aid of a
19 function of a Federal department or agency other than the
20 Department headed by the Secretary or of a State, Territory,
21 county, municipality, water district, or other local govern-
22 mental subdivision or agency, the Secretary may make
23 disposals under this Act only with the consent of such other
24 Federal department or agency or of such State, Territory,
25 or local governmental unit. Nothing in this Act shall be

1 construed to apply to lands in any national park, or national
2 monument or to any Indian lands, or lands set aside or held
3 for the use or benefit of Indians, including lands over which
4 jurisdiction has been transferred to the Department of the
5 Interior by Executive order for the use of Indians. As used
6 in this Act, the word 'Secretary' means the Secretary of the
7 Interior except that it means the Secretary of Agriculture
8 where the lands involved are administered by him for
9 national forest purposes or for the purposes of title III of the
10 Bankhead-Jones Farm Tenant Act or where withdrawn for
11 the purpose of any other function of the Department of
12 ~~Agriculture.~~ *Agriculture: Provided, That, notwithstanding*
13 *any other provisions of law, such leases or permits may be*
14 *issued for lands administered for national park, monument,*
15 *and wildlife purposes only when the President, by Executive*
16 *order, finds and declares that such action is necessary in the*
17 *interests of national defense."*

18 SEC. 2. That section 3 of the Act of July 31, 1947 (61
19 Stat. 681), as amended by the Act of August 31, 1950
20 (64 Stat. 571), is amended to read as follows:

21 "All moneys received from the disposal of materials
22 under this Act shall be disposed of in the same manner as
23 moneys received from the sale of public lands, except that
24 moneys received from the disposal of materials by the
25 Secretary of Agriculture shall be disposed of in the same

1 manner as other moneys received by the Department of
2 Agriculture from the administration of the lands from which
3 the disposal of materials is made, and except *that revenues*
4 *from the lands described in the Act of August 28, 1937 (50*
5 *Stat. 874) and the Act of June 24, 1954 (68 Stat. 270) shall*
6 *be disposed of in accordance with said Acts and except that*
7 moneys received from the disposal of materials from school
8 section lands in Alaska, reserved under section 1 of the Act
9 of March 4, 1915 (38 Stat. 1214), shall be set apart as sep-
10 arate and permanent funds in the Territorial treasury, as
11 provided for income derived from said school section lands
12 pursuant to said Act.”

13 SEC. 3. A deposit of common varieties of sand, stone,
14 gravel, punice, pumicite, or cinders shall not be deemed a
15 valuable mineral deposit within the meaning of the mining
16 laws of the United States so as to give effective validity to
17 any mining claim hereafter located under such mining laws:
18 *Provided, however, That nothing herein shall affect the va-*
19 *lidity of any mining location based upon discovery of some*
20 *other mineral occurring in or in association with such a*
21 *deposit. “Common varieties” as used in this Act does not*
22 *include deposits of such materials which are valuable because*
23 *the deposit has some property giving it distinct and special*
24 *value and does not include so-called “block pumice” which*

1 occurs in nature in pieces having one dimension of two
2 inches or more.

3 SEC. 4. (a) Any mining claim hereafter located under
4 the mining laws of the United States shall not be used, prior
5 to issuance of patent therefor, for any purposes other than
6 prospecting, mining, or processing operations and uses rea-
7 sonably incident thereto.

8 (b) Rights under any mining claim hereafter located
9 under the mining laws of the United States shall be subject,
10 prior to issuance of patent therefor, to the right of the United
11 States to manage and dispose of the vegetative surface re-
12 sources thereof and to manage other surface resources
13 thereof (except mineral deposits subject to location
14 under the mining laws of the United States). Any such
15 mining claim shall also be subject, prior to issuance of patent
16 therefor, to the right of the United States, its permittees and
17 licensees, to use so much of the surface thereof as may be
18 necessary for such purposes or for access to adjacent land:
19 *Provided, however,* That any use of the surface of any such
20 mining claim by the United States, its permittees or licensees,
21 shall be such as not to endanger or materially interfere with
22 prospecting, mining, or processing operations or uses rea-
23 sonably incident thereto.

24 (c) Except to the extent required for the mining claim-

1 ant's prospecting, mining, or processing operations and uses
2 reasonably incident thereto, or for the construction of build-
3 ings or structures in connection therewith, or to provide
4 clearance for such operations or uses, or to the extent au-
5 thorized by the United States, no claimant of any mining
6 claim hereafter located under the mining laws of the United
7 States shall, prior to issuance of patent therefor, sever, re-
8 move or use any vegetative or other surface resources thereof
9 which are subject to management or disposition by the
10 United States under the preceding subsection (b). Any
11 severance or removal of timber which is permitted under
12 the exceptions of the preceding sentence, other than sever-
13 ance or removal to provide clearance, shall be in accordance
14 with sound principles of forest management.

15 SEC. 5. (a) ~~The Secretary of the Federal Department~~
16 *The head of a Federal department or agency* which has the
17 responsibility for administering surface resources of any lands
18 belonging to the United States may file as to such lands in the
19 office of the Secretary of the Interior, or in such office as the
20 Secretary of the Interior may designate, a request for publi-
21 cation of notice to mining claimants, for determination of sur-
22 face rights, which request shall contain a description of the
23 lands covered thereby, showing the section or sections of the
24 public land surveys which embrace the lands covered by such
25 request, or if such lands are unsurveyed, either the section or

1 sections which would probably embrace such lands when the
2 public land surveys are extended to such lands or a tie by
3 courses and distances to an approved United States mineral
4 monument.

5 The filing of such request for publication shall be accom-
6 panied by an affidavit or affidavits of a person or persons
7 over twenty-one years of age setting forth that the affiant
8 or affiants have examined the lands involved in a reasonable
9 effort to ascertain whether any person or persons were in
10 actual possession of or engaged in the working of such lands
11 or any part thereof, and, if no person or persons were found
12 to be in actual possession of or engaged in the working of
13 said lands or any part thereof on the date of such examina-
14 tion, setting forth such fact, or, if any person or persons were
15 so found to be in actual possession or engaged in such working
16 on the date of such examination, setting forth the name and
17 address of each such person, unless affiant shall have been
18 unable through reasonable inquiry to obtain information as
19 to the name and address of any such person, in which event
20 the affidavit shall set forth fully the nature and results of
21 such inquiry.

22 The filing of such request for publication shall also be
23 accompanied by the certificate of a title or abstract company,
24 or of a title abstractor, or of an attorney, based upon such
25 company's, abstractor's, or attorney's examination of those

1 instruments which are shown by the tract indexes in the
2 county office of record as affecting the lands described in
3 said request, setting forth the name of any person disclosed
4 by said instruments to have an interest in said lands under
5 any unpatented mining claim heretofore located, together
6 with the address of such person if such address is disclosed
7 by such instruments of record. "Tract indexes" as used
8 herein shall mean those indexes, if any, as to surveyed lands
9 identifying instruments as affecting a particular legal sub-
10 division of the public land surveys, and as to unsurveyed
11 lands identifying instruments as affecting a particular prob-
12 able legal subdivision according to a projected extension
13 of the public land surveys.

14 Thereupon the Secretary of the Interior, at the expense
15 of the requesting department or agency, shall cause notice
16 to mining claimants to be published in a newspaper having
17 general circulation in the county in which the lands involved
18 are situate.

19 Such notice shall describe the lands covered by such
20 request, as provided heretofore, and shall notify whomever
21 it may concern that if any person claiming or asserting
22 under, or by virtue of, any unpatented mining claim hereto-
23 fore located, rights as to such lands or any part thereof,
24 shall fail to file in the office where such request for publica-
25 tion was filed (which office shall be specified in such notice)

1 and within one hundred fifty days from the date of the
2 first publication of such notice (which date shall be specified
3 in such notice), a verified statement which shall set forth,
4 as to such unpatented mining claim—

5 (1) the date of location;

6 (2) the book and page of recordation of the notice
7 or certificate of location;

8 (3) the section or sections of the public land sur-
9 veys which embrace such mining claim; or if such lands
10 are unsurveyed, either the section or sections which
11 would probably embrace such mining claim when the
12 public land surveys are extended to such lands or a tie
13 by courses and distances to an approved United States
14 mineral monument;

15 (4) whether such claimant is a locator or purchaser
16 under such location; and

17 (5) the name and address of such claimant and
18 names and addresses so far as known to the claimant
19 of any other person or persons claiming any interest
20 or interests in or under such unpatented mining claim;

21 such failure shall be conclusively deemed (i) to constitute
22 a waiver and relinquishment by such mining claimant of
23 any right, title, or interest under such mining claim contrary
24 to or in conflict with the limitations or restrictions specified

1 in section 4 of this Act as to hereafter located unpatented
2 mining claims, and (ii) to constitute a consent by such
3 mining claimant that such mining claim, prior to issu-
4 ance of patent therefor, shall be subject to the limitations and
5 restrictions specified in section 4 of this Act as to hereafter
6 located unpatented mining claims, and (iii) to preclude
7 thereafter, prior to issuance of patent, any assertion by such
8 mining claimant of any right or title to or interest in or under
9 such mining claim contrary to or in conflict with the limita-
10 tions or restrictions specified in section 4 of this Act as to
11 hereafter located unpatented mining claims.

12 If such notice is published in a daily paper, it shall be
13 published in the Wednesday issue for nine consecutive weeks,
14 or, if in a weekly paper, in nine consecutive issues, or if in
15 a semiweekly or triweekly paper, in the issue of the same
16 day of each week for nine consecutive weeks.

17 Within fifteen days after the date of first publication
18 of such notice, the department or agency requesting such
19 publication (1) shall cause a copy of such notice to be
20 personally delivered to or to be mailed by registered mail
21 addressed to each person in possession or engaged in the
22 working of the land whose name and address is shown by
23 an affidavit filed as aforesaid, and to each person who may
24 have filed, as to any lands described in said notice, a request
25 for notices, as provided in subsection (d) of this section 5,

1 and shall cause a copy of such notice to be mailed by reg-
2 istered mail to each person whose name and address is set
3 forth in the title or abstract company's or title abstractor's
4 or attorney's certificate filed as aforesaid, as having an in-
5 terest in the lands described in said notice under any un-
6 patented mining claim heretofore located, such notice to be
7 directed to such person's address as set forth in such cer-
8 tificate; and (2) shall file in the office where said request
9 for publication was filed an affidavit showing that copies
10 have been so delivered or mailed.

11 (b) If any claimant under any unpatented mining
12 claim heretofore located which embraces any of the lands
13 described in any notice published in accordance with the pro-
14 visions of subsection (a) of this section 5, shall fail to file
15 a verified statement, as above provided, within one hundred
16 and fifty days from the date of the first publication of such
17 notice, such failure shall be conclusively deemed, except as
18 otherwise provided in subsection (e) of this section 5, (i)
19 to constitute a waiver and relinquishment by such mining
20 claimant of any right, title, or interest under such mining
21 claim contrary to or in conflict with the limitations or restric-
22 tions specified in section 4 of this Act as to hereafter located
23 unpatented mining claims, and (ii) to constitute a consent
24 by such mining claimant that such mining claim, prior to
25 issuance of patent therefor, shall be subject to the limitations

1 and restrictions specified in section 4 of this Act as to here-
2 after located unpatented mining claims, and (iii) to pre-
3 clude thereafter, prior to issuance of patent, any assertion
4 by such mining claimant of any right or title to or interest
5 in or under such mining claim contrary to or in conflict with
6 the limitations or restrictions specified in section 4 of this
7 Act as to hereafter located unpatented mining claims.

8 (c) If any verified statement shall be filed by a mining
9 claimant as provided in subsection (a) of this section 5,
10 then the Secretary of the Interior shall fix a time and place
11 for a hearing to determine the validity and effectiveness of
12 any right or title to, or interest in or under such mining claim,
13 which the mining claimant may assert contrary to or in con-
14 flict with the limitations and restrictions specified in section
15 4 of this Act as to hereafter located unpatented mining
16 claims, which place of hearing shall be in the county where
17 the lands in question or parts thereof are located, unless the
18 mining claimant agrees otherwise. Where verified state-
19 ments are filed asserting rights to an aggregate of more than
20 twenty mining claims, any single hearing shall be limited
21 to a maximum of twenty mining claims unless the parties
22 affected shall otherwise stipulate and as many separate hear-
23 ings shall be set as shall be necessary to comply with this
24 provision. The procedures with respect to notice of such a
25 hearing and the conduct thereof, and in respect to appeals

1 shall follow the then established general procedures and rules
2 of practice of the Department of the Interior in respect to
3 contests or protests affecting public lands of the United
4 States. If, pursuant to such a hearing the final decision
5 rendered in the matter shall affirm the validity and effective-
6 ness of any mining claimant's so-asserted right or interest
7 under the mining claim, then no subsequent proceedings un-
8 der this section 5 of this Act shall have any force or effect
9 upon the so-affirmed right or interest of such mining claim-
10 ant under such mining claim. If at any time prior to a hear-
11 ing the department or agency requesting publication of notice
12 and any person filing a verified statement pursuant to such
13 notice shall so stipulate, then to the extent so stipulated, but
14 only to such extent, no hearing shall be held with respect
15 to rights asserted under that verified statement, and to the
16 extent defined by the stipulation the rights asserted under
17 that verified statement shall be deemed to be unaffected by
18 that particular published notice.

19 (d) Any person claiming any right under or by virtue
20 of any unpatented mining claim heretofore located and
21 desiring to receive a copy of any notice to mining claimants
22 which may be published as above provided in subsection
23 (a) of this section 5, and which may affect lands embraced
24 in such mining claim, may cause to be filed for record in
25 the county office of record where the notice or certificate

1 of location of such mining claim shall have been recorded,
2 a duly acknowledged request for a copy of any such notice.
3 Such request for copies shall set forth the name and address
4 of the person requesting copies and shall also set forth, as to
5 each heretofore located unpatented mining claim under which
6 such person asserts rights—

7 (1) the date of location;

8 (2) the book and page of the recordation of the
9 notice or certificate of location; and

10 (3) the section or sections of the public land sur-
11 veys which embrace such mining claim; or if such lands
12 are unsurveyed, either the section or sections which
13 would probably embrace such mining claim when the
14 public land surveys are extended to such lands or a tie
15 by courses and distances to an approved United States
16 mineral monument.

17 Other than in respect to the requirements of subsection (a)
18 of this section 5 as to personal delivery or mailing of copies
19 of notices and in respect to the provisions of subsection (e)
20 of this section 5, no such request for copies of published
21 notices and no statement or allegation in such request and
22 no recordation thereof shall affect title to any mining claim or
23 to any land or be deemed to constitute constructive notice
24 to any person that the person requesting copies has, or claims,

1 any right, title, or interest in or under any mining claim
2 referred to in such request.

3 (e) If any department or agency requesting publica-
4 tion shall fail to comply with the requirements of subsection
5 (a) of this section 5 as to the personal delivery or mailing
6 of a copy of notice to any person, the publication of such
7 notice shall be deemed wholly ineffectual as to that person
8 or as to the rights asserted by that person and the failure of
9 that person to file a verified statement, as provided in such
10 notice, shall in no manner affect, diminish, prejudice or bar
11 any rights of that person.

12 SEC. 6. The owner or owners of any unpatented mining
13 claim heretofore located may waive and relinquish all rights
14 thereunder which are contrary to or in conflict with the
15 limitations or restrictions specified in section 4 of this Act as
16 to hereafter located unpatented mining claims. The execu-
17 tion and acknowledgment of such a waiver and relinquish-
18 ment by such owner or owners and the recordation thereof
19 in the office where the notice or certificate of location of
20 such mining claim is of record shall render such mining claim
21 thereafter and prior to issuance of patent subject to the limi-
22 tations and restrictions in section 4 of this Act in all respects
23 as if said mining claim had been located after enactment of
24 this Act, but no such waiver or relinquishment shall be

1 deemed in any manner to constitute any concession as to the
2 date of priority of rights under said mining claim or as to the
3 validity thereof.

4 SEC. 7. Nothing in this Act shall be construed in any
5 manner to limit or restrict or to authorize the limitation or
6 restriction of any existing rights of any claimant under any
7 valid mining claim heretofore located, except as such rights
8 may be limited or restricted as a result of a proceeding pur-
9 suant to section 5 of this Act, or as a result of a waiver and
10 relinquishment pursuant to section 6 of this Act; and noth-
11 ing this Act shall be construed in any manner to authorize
12 inclusion in any patent hereafter issued under the mining
13 laws of the United States for any mining claim heretofore
14 or hereafter located, of any limitation or restriction not other-
15 wise authorized by law, *or to limit or repeal any existing*
16 *authority to include any limitation or restriction in any such*
17 *patent.*

84TH CONGRESS
1ST Session

H. R. 5891

[Report No. 730]

A BILL

To amend the Act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

By Mr. ROGERS of Texas

APRIL 27, 1955

Referred to the Committee on Interior and Insular
Affairs

JUNE 6, 1955

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

Issued June 15, 1955

For actions of June 14, 1955

84th-1st, No. 99

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

CONTENTS

Appropriations

.....4,5,6,7,29,32	Mining.....3	Roads.....3,5,10
ARS.....18	Monopolies.....21,26	Security.....34
Census.....5	Organization.....8	Selective service.....12
Civil defense.....28	Personnel.....16,34	Territories and
Dairy industry.....23	Postal rates.....17	possessions.....31
Electrification.....15,22	Property management.....8	Tobacco.....2
Foreign aid.....25	Public debt.....13	Trade agreements.....1
Forestry.....3,5	REA.....30	Water, compact.....9
Immigration.....24	Reclamation.....19,22,27,33	pollution.....11
Lands.....3,31	Research.....20	shortages.....14
transfer.....18	Retirement.....16	Weather.....5

HIGHLIGHTS: See page 5.

HOUSE

1. TRADE AGREEMENTS. Agreed to the conference report on H. R. 1, to extend the President's authority to enter into trade agreements (pp. 6941-58). The conferees agreed to a threeyear extension of the act with modifications.
2. TOBACCO. Both Houses agreed to a resolution requesting that the enrolled S. J. Res. 60, which would authorize a study of burley tobacco marketing controls, be returned to the Senate, and changing the due date of the USDA report from July 1 to November 1, 1955 (p. 6958). The amended measure will now be sent to the President.
3. FORESTS. The Rules Committee reported a resolution, which would call for consideration of H. R. 5891, to amend the mining laws to provide for multiple use of the surface of the same tracts of public lands (p. 6978).
The Interior and Insular Affairs Committee reported without amendment (H. Rept. 786) H. R. 4664, which would authorize the Secretary of Interior to acquire certain rights-of-way and timber access roads (p. 6990).
4. APPROPRIATIONS. The Rules Committee reported a resolution waiving points of order against H. R. 6766, making appropriations for certain public works projects (pp. 6990-1).

SENATE

5. COMMERCE AND RELATED AGENCIES APPROPRIATION BILL, 1956. Began debate on this bill, H. R. 6367 (pp. 6898-6923, 6927-30).
The Senate committee increased forest highways to the budget estimate of \$25,000,000, which was \$6,500,000 more than the House figure. The committee made no change in the House figure of \$5,500,000 for completion of the census of agriculture, which was \$500,000 less than the budget estimate.

The committee report includes the following statement: "It is the sense of the committee that the extension of agriculture frost-warning service is to be encouraged wherever communities or local associations of agricultural producers provide required supporting funds. In the case of Maricopa County, Ariz., \$10,000 is provided within the amount allowed for the provision of such a service."

6. DEFENSE DEPARTMENT APPROPRIATION BILL, 1956. The Appropriations Committee reported with amendments this bill, H. R. 6042 (S. Rept. 545) (p. 6864).
7. GENERAL GOVERNMENT MATTERS APPROPRIATION BILL, 1956. The Appropriation subcommittee ordered favorably reported to the full committee with amendments this bill, H. R. 6499 (p. D548-9).
8. ORGANIZATION; PROPERTY MANAGEMENT. Received from the Hoover Commission a report on real property management; to Government Operations Committee (p. 6860).
9. WATER COMPACT. The Public Works Committee reported without amendment H. R. 208, providing for a water compact between Ark. and Okla. (S. Rept. 539) (p. 6864).
10. ROADS. The Public Works Committee reported with amendment H. R. 5923, to authorize certain sums to be appropriated for the completion of the construction of the Inter-American Highway (S. Rept. 542) (p. 6864).
11. WATER POLLUTION. The Public Works Committee reported with amendments S. 890, to extend and strengthen the Water Pollution Control Act (S. Rept. 543) (p. 6864).
12. SELECTIVE SERVICE. The Armed Services Committee reported with amendments H. R. 3005, to extend selective service for 4 years until July 1, 1959 (S. Rept. 549) (p. 6864).
13. PUBLIC DEBT. Sen. Martin, Pa., discussed the increase in public and private debt and stated that "Government, at all levels, should balance the budget" (p. 6882).
14. WATER SHORTAGES. Sen. Bennett discussed the problems of water shortages and inserted a Washington Sunday Star editorial, "Water, Water Everywhere, But U. S. May Be Facing Catastrophic Shortage" (pp. 6882-3).
15. ELECTRIFICATION. Sen. Neuberger discussed the concern being expressed over the decision of the Supreme Court in the case of the Federal Power Commission against Oregon and inserted newspaper articles on this subject (pp. 6883-5).
Sen. Lehman inserted his testimony in favor of Niagara power project legislation (pp. 6930-4).
16. PERSONNEL. Discussed and passed over S. 1041, to provide for the inclusion in the computation of accredited service, under the Civil Service Retirement Act, of certain periods of service rendered States or instrumentalities of States. Sen. Purtell stated he did not think it proper business to consider this bill on call of the calendar in view of the fact that the Civil Service Commission and the Bureau of the Budget have expressed opposition to the bill (p. 6897).
The Post Office and Civil Service Committee ordered favorably reported without amendment S. 59, to make April 1, 1948 the effective date for survivorship benefits to widowers, and S. 1849, to provide for the grant of career-conditional and career appointments in the competitive civil service to indefinite employees who previously qualified for competitive appointment (p. D549).

CONSIDERATION OF H. R. 5891

JUNE 14, 1955.—Referred to the House Calendar and ordered to be printed

Mr. THORNBERRY, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res. 271]

The Committee on Rules, having had under consideration House Resolution 271, report the same to the House with the recommendation that the resolution do pass.



House Calendar No. 82

84TH CONGRESS
1ST SESSION

H. RES. 271

[Report No. 810]

IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 1955

Mr. THORNBERRY, from the Committee on Rules, reported the following resolution; which was referred to the House Calendar and order to be printed

RESOLUTION

1 *Resolved*, That upon the adoption of this resolution it
2 shall be in order to move that the House resolve itself into
3 the Committee of the Whole House on the State of the
4 Union for the consideration of the bill (H. R. 5891) to
5 amend the Act of July 31, 1947 (61 Stat. 681), and the
6 mining laws to provide for multiple use of the surface of
7 the same tracts of the public lands, and for other purposes.
8 After general debate, which shall be confined to the bill, and
9 shall continue not to exceed one hour, to be equally divided
10 and controlled by the chairman and ranking minority mem-
11 ber of the Committee on Interior and Insular Affairs, the bill
12 shall be read for amendment under the five-minute rule. At

1 the conclusion of the consideration of the bill for amendment,
2 the Committee shall rise and report the bill to the House
3 with such amendments as may have been adopted, and
4 the previous question shall be considered as ordered on the
5 bill and amendments thereto to final passage without inter-
6 vening motion except one motion to recommit.

House Calendar No. 82

84TH CONGRESS
1ST SESSION

H. RES. 271

[Report No. 810]

RESOLUTION

Providing for the consideration of H. R. 5891,
a bill to amend the Act of July 31, 1947 (61
Stat. 681), and the mining laws to provide
for multiple use of the surface of the same
tracts of the public lands, and for other pur-
poses.

By Mr. THORNBERY

JUNE 14, 1955

Referred to the House Calendar and ordered to be
printed

AMENDING THE ACT OF JULY 31, 1947 (61 STAT. 681), AND THE
MINING LAWS TO PROVIDE FOR MULTIPLE USE OF THE SURFACE
OF THE SAME TRACTS OF THE PUBLIC LANDS

JUNE 15 (legislative day, June 14), 1955.—Ordered to be printed

Mr. ANDERSON, from the Committee on Interior and Insular Affairs,
submitted the following

R E P O R T

together with

INDIVIDUAL VIEWS

[To accompany S. 1713]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 1713) to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

Public hearings were held on the measure, and a number of witnesses, representing mining, lumbering, conservation, and wildlife and sportsmen's groups, were heard. All but one of the witnesses expressed support for the basic principles and purposes of the proposed legislation, although several urged amendment. All proposals for amendment were carefully considered, and a number were adopted.

In addition, the committee received and considered scores of communications from all parts of the country on the bill. By far the greater part were favorable. The executive agencies that would have responsibility for carrying out the provisions of the measure strongly urge passage, and the attention of the Senate is directed to their reports which are set forth in full.

PURPOSE OF THE MEASURE

The purpose of S. 1713 is to permit multiple use of the surface resources of our public lands, to provide for their more efficient

administration, and to amend the mining laws to curtail abuses of those laws by a few individuals who usually are not miners.

At the same time, the measure faithfully safeguards all of the rights and interests of bona fide prospectors and mine operators. In no way would it deprive them of rights and means for development of the mineral resources of the public lands of the United States under the historic principles of free enterprise and private ownership of the present mining laws.

To achieve these objectives, the bill would—

(1) Provide that deposits of common varieties of sand, building stone, gravel, pumice, pumicite, and cinders on the public lands, where they are found in widespread abundance, shall be disposed of under the Materials Act of 1947 (61 Stat. 681), rather than under the mining law of 1872.

(2) Amend the Materials Act to give to the Secretary of Agriculture the same authority with respect to the common, widespread mineral materials (including, but not limited to, common varieties of the following: sand, stone, gravel, pumice, pumicite, cinders, and clay) and vegetative materials (including, but not limited to yucca, manzanita, mesquite, cactus, and timber or other forest products) located on lands under his jurisdiction as that which the Secretary of the Interior has with respect to lands under the jurisdiction of the Secretary of the Interior.

(3) Amend the general mining law to prohibit the use of any hereafter located unpatented mining claim for any purpose other than prospecting, mining, processing, and related activities for development of mineral resources.

The bill would vest in the responsible United States administrative agency authority to manage and dispose of vegetative surface resources on such locations, to manage other surface resources thereof (except minerals subject to the mining laws), and to use so much of the surface as is necessary for management purposes or for access to adjacent lands.

Any such surface use, however, is limited in specific terms to those activities which do not endanger or materially interfere with mining operations or related activities; it is the intent of the proposed legislation that mineral resource development shall remain the dominant use of lands under mining claim.

(4) Establish, with respect to mining claims located prior to enactment of S. 1713, particularly as to invalid, abandoned, dormant, or unidentifiable claims, an in rem procedure in the nature of a quiet-title action, whereby the United States could expeditiously resolve uncertainties as to surface rights on such locations.

The holder of any claim in existence at the time of enactment of this legislation could retain all present rights to any and all surface resources on the claim by establishing, under prescribed procedures, his need for such surface resources for development of the claim's mineral resources. On a claim located after enactment, the locator would have full right to all surface resources of the claim which may be needed for carrying on mining activities.

His rights to subsurface resources remain unchanged on claims located both before and after enactment. Upon proceeding to patent, he would have full title in fee simple absolute as heretofore to both surface and subsurface.

BACKGROUND OF THE LEGISLATION

The broadest possible use of all of the resources of our public lands and forests for the benefit of the American people is a matter of great national import. The rapidly expanding population and economy of our Nation, and of the Western States in particular, have been accompanied by an ever-growing need for more general and more intensive use of our natural resources. The high tempo of our housing industry has brought about heavy demands for timber; stock growers need more grazing area to meet the increasing consumption of meat, leather and wool; our mining industry is under the constant necessity of exploring for and developing additional sources of new and old minerals to meet the ever-increasing requirements of our national security and industrial economy; and our growing population requires expanded recreational areas.

Conflict between surface and subsurface uses of our publicly owned lands is as old as the West itself, where most of the remaining public domain lies. Surface uses include stock grazing, forestry, soil-erosion control, watershed purposes, fish and wildlife preservation, and recreational areas. The subsurface use is that of development of the minerals that have been a basis for our great industrial and economic development.

As long as there was plenty of land that could be dedicated to each use, separately, the results of conflicts between surface and non-surface uses were generally local and minor in character.

However, in recent years our security needs, the growth of our population, and the expansion of our economy have brought about a situation in which it is no longer in the national interest that the public domain should be used for one of the uses to the exclusion of the other. This developing situation has been greatly intensified within the past few years by our insatiable needs for domestic sources of uranium and other fissionable "source materials" for atomic energy.

Historically, the mining law of 1872 has encouraged individual prospecting, exploration, and development of the public domain. The incentive for such activity has been the assurance of ultimate private ownership of the minerals and lands so developed. Under these laws, a prospector can go out on the public domain not otherwise withdrawn, locate a mining claim, search out its mineral wealth and, if discovery of mineral is made, can then obtain a patent which gives him full title to both the surface and subsurface of the land and its resources. The property, with issuance of patent, becomes the individual's to develop or sell, according to his initiative or desire.

A statement of the historic approach of Congress to this development of our mineral resources is to be found in section 1 of the act of May 10, 1872 (17 Stat. 911; 30 U. S. C. 22):

* * * all valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, shall be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

ABUSES UNDER THE MINING LAWS

Over the past several years, the committee has received an increasing number of reports of growing abuses of the mining laws by persons whose primary interest in filing claims was not mining. The most serious of these abuses is that relating to mining claims in national forests whereby claimants have been able to obtain a color of title to hundreds of thousands of acres of valuable timber belonging to the people of the United States at virtually no cost to themselves and subject to little or no control, in fact, by the Forest Service.

The attention of the Senate is directed to the following extract from the report of the Department of Agriculture on S. 1713, which is set forth in full at the end of this report:

As of January 1, 1952, there were 36,600 mining patents on the national forests, covering 918,500 acres. Only about 15 percent of these mining patents have been or are commercially successful mines. As of the same date, there were approximately 84,000 claims, covering 2.2 million acres. Only 2 percent of these claims were producing minerals in commercial quantities and probably not more than 40 percent could be considered valid under the requirements of the mining laws. Yet, on these national-forest claims, there was tied up over 8 billion feet of commercial sawtimber, valued at about \$100 million which the Government could not sell without consent of the claimant. In other words, national-forest timber exceeding in quantity and value that cut from all national forests in any one year is tied up on mining claims and cannot be sold by the Government. The two tables attached to this report supply these basic statistics by States.

The effect of this situation is increased costs of administration, obstruction of orderly management and competitive sale of timber, and obtaining high-value, publicly owned surface resources by a few individuals at nominal cost.

In the last 3 years there has been a tremendous increase in the number of mining claims on the national forests, principally as the result of prospecting for uranium and other fissionable materials. For example, as of January 1, 1955, it is estimated that there were 166,000 claims on the national forests, covering nearly 4 million acres or about a 100-percent increase in the past 3 years. At the rate claims are currently being filed, we estimate that by the end of this calendar year there will be about 225,000 mining claims on the national forests. It is also estimated conservatively that there are now over 10 billion board-feet of timber tied up on national-forest mining claims, having a current stumpage value of \$112 million.

* * * * *

The number of claims is "snowballing" so fast that the situation on the national forests is rapidly getting out of hand. The above summary, for example, shows that there are nearly 7 times as many mining claims in Arizona as 3 years ago, and nearly 4 times as many in New Mexico and Utah. The increase has been large in other States, too. Equitable corrective action as would be provided by S. 1713 is urgently needed. It is needed quickly because new claims are being filed at the rate of about 5,000 per month.

Similarly, the Department of the Interior states in its report:

S. 1713 is designed to meet a situation which has arisen because of more intensive Federal use of the public lands in recent years. Under the existing mining laws various abuses have been possible. For example, it has been possible for persons who have unpatented claims under the mining laws to prevent orderly management and disposition of valuable timber and other surface resources, and also to block access to such resources on unlocated Federal land while paying little or no attention to mining. Moreover, many claims have been based on deposits of the mineral materials listed in section 1 which, although technically of sufficient value to justify a location, are actually of minor worth as compared to other natural resources of the land. Another example of these abuses may be seen in the fact that it has been possible to acquire a color of right, through a mining location, for nonmining purposes, such as summer homesites.

This bill is designed to strike at these abuses, which violate the spirit of the mining laws. The bill provides that deposits of common minerals such as ordinary varieties of sand, stone, gravel, pumice, pumicite, and cinders shall not be deemed valuable mineral deposits within the meaning of the mining laws. Secondly, it

prohibits the use of a claim for any nonmining purpose prior to the issuance of patent.

The type of practice against which this bill is directed has drawn the disapproval of the mining industry generally, conservation groups, and other public land users. The national interest in encouraging the discovery of minerals dictates that the mining industry should have a continued opportunity to locate mining claims, to mine minerals found there, to discover and develop commercial deposits, and, if fortunate, to make a profit, but the national interest is not served by preventing the use of the surface of unpatented claims for other desirable user which do not substantially interfere with mining operations and related activities. This legislation is based upon this sound premise, in our view.

At the same time as the proposed legislation would meet the wishes of the mining industry, it would also give full recognition to the vital importance of the forest and range resources of the public lands and the national forests, for the bill provides for the multiple use of the surface of mining claims and thus permits the conservation and wise use of all surface resources in the public interest.

As pointed out, even on perfectly valid mining claims in national forests, such claims often have the effect, even though unintended, of blocking access to adjacent tracts of mature and merchantable Federal timber resulting in waste of this resource and loss to the local and national treasuries.

On nonforest lands, mining locations made under existing law may, and do, whether by accident or design, frequently block access to water needed for grazing on public lands, to valuable recreational areas, and to agents of the Federal Government desiring to reach adjacent lands for purposes of managing wild-game habitat or improving fishing streams so as to thwart the public enjoyment and proper management of fish and game resources on the public lands generally, both on the located lands and on adjacent lands.

The evidence shows that some locators, in reality, have filed mining claims solely for commercial enterprises such as filling stations, curio shops, cafes, or for residence or summer camp purposes, and as private hunting and fishing preserves. If application is made for residence or summer camp purposes under Federal law other than the mining laws, sites usually embrace small tracts, that is, 5-acre tracts; on the other hand, mining locations provide for control and utilization of approximately 20-acre tracts. Fraudulent locators can get color of title to 20 acres instead of 5 acres.

The effect of nonmining activity under color of existing mining law results in uncontrolled waste of valuable resources of the surface on lands embraced within claims which might satisfy the basic requirement of mineral discovery, but which were in fact, made for a purpose other than mining. The activities of a relatively few individuals have reflected unfairly on the legitimate mining industry.

The committee has received convincing evidence that the present situation, with the vastly more numerous and complex problems that have arisen from the widespread search for domestic uranium, requires the type of new legislative approach provided by S. 1713.

EXISTING REMEDIES INADEQUATE

Strict Federal enforcement of existing laws over the past several years could, in theory at least, have eliminated many of the abuses outlined above. But the existing legal and administrative machinery has been slow and cumbersome, and personnel for adequate enforcement insufficient.

Problems raised by abuses under the mining laws have for some time been recognized by the mining industry, by the Federal agencies

responsible for administration of the public's resources, and by private groups and individuals sincerely interested in wise conservation and utilization of all of our surface and subsurface resources.

If fraudulent locations are made, under present law the United States has the right to refuse patents (if application is made), or to contest such locations by individual administrative action, or attack them in court.

Modification of presently authorized administrative action alone does not appear the answer. Presently available remedies are time-consuming, are costly, and, in the end, are sometimes not conclusive. Where a location is based on discovery, it is extremely difficult to establish invalidity on an assertion by the United States that the location was, in fact, made for a purpose other than mining.

The American Mining Congress, a national organization composed of both large and small producers of all metals and minerals mined in the United States, included the following statement in its declaration of public land policy adopted at the annual meeting in San Francisco in September 1954:

We believe * * * that suitable amendments can be made in the general mining laws which, with proper use of available procedures, will simplify enforcement and minimize bad-faith attempts through pretended mining locations to serve objectives other than the discovery and development of minerals. We believe that this can be accomplished in a manner which will protect the incentive and reward now inherent in the mining laws.

The nonprofit, noncommercial, educational American Forestry Association, with more than 25,000 members, echoes this position of the mining industry. With some 800 natural-resource leaders present, the Fourth American Forest Congress, in October 1953, adopted by an overwhelming referendum vote of the association as section III D of its new program for American forestry, under the heading "Mining on Public Lands," this language:

Efficient management of many millions of acres of Federal public lands, including the discovery and development of new or known mineral resources, is in the public interest. The legitimate miner and prospector should be encouraged to carry on such work. However, widespread abuses under the existing mining laws as a means of acquiring Government lands for other than mining purposes should be stopped. We therefore recommend that Congress revise the Federal mining laws to prevent their abuse by claimants or patentees who use their claims to tie up more valuable timber or other resources than they legitimately need to develop the minerals.

The committee is convinced that enactment of S. 1713, as amended, would be of great assistance in solving the growing problems outlined above. It cites, as a precedent for the handling of a somewhat similar problem in some respects, its bill in the 83d Congress that became Public Law No. 585 (68 Stat. 708). This law permits multiple use of the subsurface of public domain, permitting development of mineral deposits to go forward under the mining laws and the mineral leasing acts on the same tracts at the same time. S. 1713 is similar in philosophy and purpose with respect to surface and subsurface uses, and adopts some of the procedural mechanisms set up in Public Law 585, 83d Congress.

SECTIONAL ANALYSIS OF S. 1713

1. Amendment of Materials Act

Section 1 of S. 1713, with section 3, would amend section 1 of the act of July 31, 1947 (61 Stat. 681; 43 U. S. C. 1185), to provide for disposal of common varieties of sand, common stone, gravel, pumice, pumicite, cinders, and clay under the Materials Act of 1947. Section 3 provides that, in the future, these commonly occurring materials cannot be the object of location and removal under the general mining law.

The committee amendments extend the provisions of the section to the revested Oregon and California railroad grant lands, and the Taylor Grazing Act is specified as being included among the laws under which disposal of materials is not to be affected by S. 1713.

The Secretary of Agriculture is given, by section 1, the same authority with respect to mineral materials and vegetative materials located on lands under his jurisdiction as that which the Secretary of the Interior has with respect to lands under his jurisdiction.

The provisions of section 1 of the 1947 act, as thus amended, will, by the terms of this bill, apply in the future to national forest and title III Bankhead-Jones lands.

The provisions of section 1 of the 1947 act will remain inapplicable to national parks and national monuments or to Indian lands, or lands set aside or held for the use or benefit of Indians, including lands withdrawn for Indian use by Executive order.

Section 1 of the bill does not affect rights under existing valid mining claims.

2. Receipts from materials disposal

Section 2 would amend section 3 of the 1947 act (43 U. S. C. 1187) to provide that moneys received from the disposal of materials thereunder shall be subject to disposition under the same provisions as moneys received from the sale of public lands, except that moneys received from the disposal of materials by the Secretary of Agriculture would be disposed of in the same manner as are other receipts from the lands from which the materials are removed. The committee amendment to this section provides that receipts under the Materials Act from the O. and C. lands will be disposed of as are other receipts from those lands.

Receipts from disposal of materials from Alaska school section lands will be treated as income from such lands presently is treated.

3. Removal of common materials from mining location

Section 3 of the bill specifically states that a deposit of common varieties of sand, stone, gravel, pumice, pumicite, or cinders shall not be deemed a valuable mineral deposit within the meaning of the mining laws so as to give validity to any mining claim hereafter located under such mining laws.

Attention is called to two additional clauses contained in this section.

The proviso in this section reading—

* * * nothing herein contained shall affect the validity of any mining location based upon discovery of some other mineral occurring in or in association with such a deposit—

has been incorporated in the bill to make clear the committee intent to not preclude mining locations based on discovery of some mineral other than a common variety of sand, stone, etc., occurring in such materials, such as, for example, a mining location based on a discovery of gold in sand or gravel.

The last sentence of this section declares that—

“Common varieties” as used in this act does not include deposits of such materials which are valuable because the deposit has some property giving it distinct and special value * * *.

This language is intended to exclude from disposal under the Materials Act materials that are commercially valuable because of “distinct and special” properties, such as, for example, limestone suitable for use in the production of cement, metallurgical or chemical-grade limestone, gypsum, and the like.

Section 3 of the bill applies only to locations made after enactment, does not affect rights under existing valid mining claims.

4. Rights of future locators to surface resources

Section 4 of the bill delineates the rights, limitations, and restrictions which would apply to any unpatented mining claim located after the effective date of the act.

Subsection (a) specifically provides that, prior to issuance of patent, no mining claim hereafter located could be used for any purpose other than prospecting, mining, or processing operations and uses reasonably incident thereto. This subsection states affirmative rights—mining claims can, in the future, be used for activities related to prospecting, mining, processing and related activities, though not for unrelated activities.

Subsection (b) of section 4 provides that hereafter located claims under the mining laws shall be subject, prior to patent issuance, to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof, so long as such management and disposition does not endanger or materially interfere with the prospecting, mining, or processing operations, or uses reasonably incident to such mineral development activities.

This subsection would also make such claims subject, prior to issuance of patent, to the right of the United States, its permittees and licensees, to use so much of the location surface as may be necessary for access to adjacent land.

With respect to the reservations in the United States to use of the surface and surface resources as set out in the two preceding paragraphs attention is called to the proviso which qualifies them:

* * * any use of the surface of any such mining claim by the United States, its permittees, or licensees, shall be such as not to endanger or materially interfere with prospecting, mining, or processing operations or uses reasonably incident thereto.

This language, carefully developed, emphasizes the committee's insistence that this legislation not have the effect of modifying long-standing essential rights springing from location of a mining claim. Dominant and primary use of the locations hereafter made, as in the past, would be vested first in the locator; the United States would be authorized to manage and dispose of surface resources, or to use the surface for access to adjacent lands, so long as and to the extent that

these activities do not endanger or materially interfere with mining, or related operations or activities on the mining claim.

The first committee amendment to the subsection provides that mining operations shall not suffer because the Federal Government has sold off the timber on a claim in accordance with the authorization in the bill. Up to the amount of timber of the same type and quantity removed from the claim, the claim holder has a right to other Federal timber which he needs in his mining operations.

The second proviso endeavors to make plain the committee's intent that no provision of S. 1713 shall be construed as relating in any way to control under State law of surface waters on mining claims heretofore or hereafter located.

Subsection (c) of section 4 of the bill specifically imposes restrictions on the locator's use of surface resources not related to mining or related activities.

It prohibits removal or use, by the mining claimant, of timber or other surface resources made subject, by subsection (b) of section 4, to management and disposition by the United States; again, it will be noted—

Except to the extent required for the mining claimant's prospecting, mining, or processing operations and uses reasonably incident thereto, or for the construction of buildings or structures in connection therewith, or to provide clearance for such operations or uses, or to the extent authorized by the United States * * *.

This language, read together with the entire section, emphasizes recognition of the dominant right to use in the locator, but strikes a balance, in the view of the committee, between competing surface uses, and surface versus subsurface competing uses.

Finally, subsection (c) requires that any timber cutting by the mining claimant, other than that to provide clearance, shall be done in accordance with sound principles of forest management.

The foregoing rights, reservations, limitations, and restrictions apply only to claims hereafter located, and operate only prior to issuance of patent.

After patent, the patentee, as under traditional law which has existed since 1872, with respect to most lands acquires full title to the mining claim and its resources, surface, and subsurface. Acquisition of patent requires compliance with the mining laws as to location, payment to the United States of the purchase price, and a determination by the Department of the Interior as to claim validity and full compliance with the law.

5. Procedure for resolving title uncertainties on claims located prior to date of the act

At the present time, agencies administering federally owned lands encounter many difficulties in the administration of lands under their jurisdiction because of the presence of unpatented mining claims concerning the very existence of which there are grave doubts and uncertainties. This undesirable situation would be alleviated by the procedure provided in section 5 for the expeditious determination of title uncertainties resulting from mining claims located prior to the enactment of the bill. Not only is it necessary that some means be established for an expeditious determination of claims, but also, if section 4 of S. 1713 is to have the desired effect upon the management and use of the surface resources of unpatented mining claims, a

procedure to identify which unpatented claims will be subject to the restrictions of section 4 is necessary. The in rem procedure which would be established by section 5 answers this need, for it would permit a determination of those valid claims existing prior to the enactment of the bill with respect to which surface rights are asserted adverse to those established in the United States by this measure.

The committee understands that this section does not impair authority under existing law to declare mining claims null and void for failure to comply with provisions of law governing such claims, and that nothing in this section or elsewhere in the bill would prevent the taking by the United States of any mining claim under the right of eminent domain.

Proceeding in a manner similar to that provided in the act of August 13, 1954 (Public Law 585, 83d Cong., 2d sess.; 68 Stat. 708), the Secretary of the Interior, at the request of the Federal department or agency having the responsibility for administering the surface of United States lands in a given area, shall initiate action for a determination of surface rights thereto. Under this procedure, a holder of a claim located prior to enactment could assert and establish his rights in the lands covered by his claim, and the claim would be unaffected by the proceeding.

If such a claimant fails to establish his rights, or fails to assert his rights, or if he voluntarily waives his rights to the surface, he will be in the same position as a holder of a claim located after enactment of this bill.

The procedure does not affect the right of a claimant to apply for patent, and if patent is granted he would acquire the same title as he would under the existing law.

Initiating proceedings.—Subsection (a) of section 5 would permit setting in motion this chain of events: The responsible Federal administrator would file with the Secretary of the Interior a request for publication of notice to mining claimants for the determination of surface rights to a described area.

The bill requires that such request be accompanied by affidavits of persons who had examined the lands involved in an effort to ascertain whether or not any persons were in possession of, or engaged in working, the lands. The affidavit would state the names and addresses of all persons so found, or if none were found, a statement to that effect.

It is further required that there accompany such request the certificate of an attorney, a title abstractor, or a title or abstract company, based upon an examination of tract indexes in the county office of record, setting forth the name of any person appearing in those records as having an interest in the lands involved under an unpatented mining claim.

Notice by publication, and registered mail, or in person.—Upon receipt of such request, accompanied by the required affidavits and certificate of records abstract, the Secretary of the Interior, at the expense of the requesting department or agency, will publish notice to mining claimants in a newspaper of general circulation in the county in which the lands involved are situated.

If published in a daily newspaper, the bill requires publication in the Wednesday issue for 9 consecutive weeks; if in a weekly paper, in 9 consecutive issues; if in a semiweekly or triweekly paper, in the issue of the same day of each week for 9 consecutive weeks.

In addition, each person shown by name and address in the affidavits required will by registered mail or in person receive, within 15 days after first publication, a copy of the published notice; so too will persons whose names and addresses are set out in the required certificate of records abstract, and those filing requests for such notices under subsection (d) of section 5.

Summary of notice requirements.—Summarized, the detailed requirements of subsection (a) of section 5 as to notice of pendency of the “quiet title” proceeding would require a preexamination of the lands, to ascertain, if possible, any parties in possession. Notice must be published in a newspaper of general circulation in the county in which the lands involved are situated. A copy of the notice must be personally delivered or sent by registered mail: (1) To each person found to be in possession or engaged in working the lands involved in the proceeding, and (2) to each person who has filed in the county office of record a request for such notice as contemplated under subsection (d), and a copy of the notice must be mailed by registered mail to each person who is shown by a title search to have an interest in the lands.

Effect of failure to assert rights.—Subsection (b) of section 5 establishes a time deadline for assertion of rights to lands involved, and spells out the consequences of failure on the part of claimants to act.

Any person asserting rights under an unpatented mining claim in lands involved would be required to submit, within 150 days from the date of first publication, a statement setting forth pertinent information as to his claim. The filing of such a statement gives him a statutory right to a hearing on any rights to surface uses about which there is any doubt.

Any claimant failing to submit such a statement would be conclusively deemed, except as provided in subsection (e) of section 5:

(1) to have waived and relinquished any right, title, or interest under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of the act as to hereafter located unpatented mining claims;

(2) to have consented that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 4 as to hereafter located unpatented mining claims; and

(3) to have precluded any right in himself to thereafter, prior to issuance of patent, assert any right or title to, or interest in or under, such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of the act as to hereafter located unpatented mining claims.

Hearing on determination of rights.—Subsection (c) of section 5 provides that if a mining claimant asserts rights contrary to or in conflict with the provisions relating to the use and management of surface resources, as set forth in section 4 of this bill, the Secretary of the Interior shall hold a hearing to determine the validity of such rights.

Such hearings would, under the bill, follow the established general procedures and rules of practice of the Department of the Interior with respect to contests or protests affecting public lands.

To limit the length of the hearing and cost of transcripts, the bill limits any single hearing to a maximum of 20 mining claims, unless the parties otherwise stipulate.

Assurance of receiving notice.—Subsection (d) of section 5 permits a mining claimant to assure himself in advance of receiving notice of a proposed proceeding affecting his claim if the claimant files in the county office of record a request for a copy of any such notice, giving his name, address, and certain data as to each unpatented mining claim under which he asserts rights.

Effect of failure to notify.—Subsection (e) of section 5 provides that the publication of notice shall be wholly ineffectual as to any person entitled to be served with, or to be mailed a copy of, the published notice, if the notice is not in fact so served upon or mailed to him.

6. *Waiver or relinquishment of surface rights*

Section 6 has as its objective permitting and encouraging cooperation and avoidance of controversy.

It permits the owner of any unpatented mining claim, heretofore located, if he so desires, to waive and relinquish all rights thereunder which are contrary to or in conflict with the limitations and restrictions specified in section 4; effect of such waiver and relinquishment would, in other words, result in such a claim having a surface rights status applicable to mining claims hereafter located.

This section specifically declares that such a waiver or relinquishment will not constitute any concession as to the validity of the owner's claim, or as to the date of priority of rights under the claim.

7. *General construction section*

Section 7 restates the scope of the proposed legislation, setting forth affirmatively that—

1. The bill shall not be construed to limit or restrict, now or in the future, any valid existing rights under the mining law except those surface rights not necessary to mineral development which may be subject to actions under section 5, or as the result of waiver under section 6.

2. No patent issued under the mining laws for any mining claim, whether located prior to or subsequent to enactment of the bill, shall contain any reservation, limitation, or restriction not otherwise authorized by law. That is, S. 1713 will not impose, and does not authorize imposition, of any restriction or reservation in any patent to a mining claim.

3. However, existing law under which such reservations may now be made, such as with respect to patents on claims in certain forest lands, is not repealed by the bill, nor is the reservation to the United States of minerals subject to the leasing acts, as provided in Public Laws 250 and 585, 83d Congress, affected.

THE COMMITTEE AMENDMENTS

All of the amendments adopted by the committee to S. 1713 are perfecting or clarifying of the intent and purpose of the bill as introduced. None change the substance or philosophy of the measure.

The changes recommended by the Departments of the Interior and Agriculture, as set forth in their reports printed herein, were adopted for the reasons given. In addition, the committee adopted several amendments the need for which developed from the hearings.

Attention is directed to the amendment to section 4 (b), page 5, providing that a locator on a claim on which the timber has been

disposed of under this act must be supplied with other timber, of like kind and quantity, that he needs to develop the mineral resources of his claim, up to the amount of timber of the same type disposed of by the Federal agency. As stated previously, S. 1713 would make no change in the full ownership of the surface and all of its resources, as well as the resources of the subsurface, of a mining claimant who proceeds to patent his holdings.

The purpose of the amendment set forth in the second proviso to section 4 (b) on page 6 is to make certain that surface rights to waters reserved to the United States, as well as those assured to mining claimants, will continue to be regulated and controlled by the provisions of State law to the same extent and degree as they are at present.

With respect to the last amendment in section 7, the committee wishes to make clear its intent that S. 1713 shall leave unaffected the rights of reservation to the United States and the multiple mineral development under the mining laws and the leasing acts established by Public Law 250 and Public Law 585 of the 83d Congress.

SUPPORT FOR S. 1713

The language of the bill, as reported, has been developed with the active support and cooperation of both the Departments of Agriculture and the Interior, and of the mining and lumbering industries as well as conservationist and sportsmen's groups.

Included in a long list of National, State, and local groups and individuals supporting this legislation are the following:

American Mining Congress; American Federation of Labor; Independent Timber Farmers of America; The American Forestry Association; Western Lumber Manufacturers; National Wildlife Federation; Sports Afield; National Lumber Manufacturers Association; National Farmers Union; Wildlife Management Institute; the Izaak Walton League of America; the National Grange; Northwest Mining Association; Northern Rocky Mountain Sportsmen's Association; Western Forest Industries Association; Western Forestry and Conservation Association; United States Chamber of Commerce; Society of American Foresters; and the American Nature Association.

Three States—California, Oregon, and Arizona—through conservation organizations, have endorsed its enactment, along with numerous other industry, labor, civic, educational, conservation, and hunting and fishing organizations and individuals.

EXECUTIVE AGENCY REPORTS

The favorable reports of the Departments of the Interior and Agriculture, and that of the Bureau of the Budget, are set out following.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., May 17, 1955.

HON. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington 25, D. C.*

MY DEAR SENATOR MURRAY: This is in reply to your request for the views of this Department on S. 1713, a bill to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for the multiple use of the surface of the same tracts of the public lands and for other purposes.

We recommend that S. 1713 be enacted, and suggest that it be amended as indicated hereinafter.

S. 1713, if enacted, would make a number of significant changes in existing laws governing mining and the disposal of materials on the public lands particularly insofar as surface uses and rights are concerned. Briefly summarized, the bill may be said to provide as follows: (1) The first three sections would exclude certain minerals from among those on which claims under the mining laws may be based, and would provide a means for the disposal of the materials so excluded; (2) section 4 would limit the rights of a holder of an unpatented mining claim hereafter located to the use of the surface and surface resources; and (3) sections 5 and 6 would provide a procedure for the clarification of surface rights appurtenant to mining claims existing at the time of the bill's enactment. Existing rights would be protected by section 7.

Section 1 of the bill would amend section 1 of the act of July 31, 1947 (61 Stat. 681; 43 U. S. C., sec. 1185), to add certain common minerals to the materials subject to disposition under that act. Also, the Secretary of Agriculture would be given the same authority with respect to mineral materials, including, but not limited to, sand, stone, gravel, pumice, pumicite, cinders, and clay, and vegetative materials, including, but not limited to, yucca, manzanita, mesquite, cactus, and timber or other forest products, located on lands under his jurisdiction as that which the Secretary of the Interior has with respect to lands under his jurisdiction. The provisions of that section would remain inapplicable to national parks and monuments and to Indian lands, but would in future be applicable to national forests.

Section 2 would amend section 3 of that act, as amended (43 U. S. C., sec. 1187), to provide that moneys received from the disposal of materials thereunder would be subject to disposition under the same provisions as moneys received from the sale of public lands, except that moneys received from the disposal of materials by the Secretary of Agriculture would be disposed of in the same manner as are other receipts from the lands from which the materials are removed. Moneys received from the disposal of materials from school section lands in Alaska would be treated as income from such school section lands is ordinarily treated.

Section 3 specifically states that a deposit of common varieties of sand, stone, gravel, pumice (except block pumice), pumicite, or cinders shall not be deemed a valuable mineral deposit within the meaning of the mining laws so as to give effective validity to any claim located thereunder.

Section 4 provides that, prior to the issuance of patent, no mining claim located subsequent to the enactment of S. 1713 could be used for any purpose other than prospecting, mining, or processing operations, and uses reasonably incident thereto, and all rights under the claim would be subject to the right of the United States to manage and use the surface; moreover, prior to the issuance of patent, no claimant could sever, remove, or use vegetative or other surface resources, except to the extent required by mining operations or uses reasonably incident thereto.

At the present time, agencies administering federally owned lands encounter many difficulties in administering the lands under their jurisdiction because of the presence of unpatented mining claims of the existence of which they may not even be aware. This undesirable situation would be alleviated by the procedure which section 5 of S. 1713 would provide for determining expeditiously title uncertainties resulting from the existence of abandoned, invalid, dormant, or unidentifiable mining claims, located prior to the enactment of the bill. Not only is it necessary that some means be established for the expeditious determination of these uncertainties resulting from the existence of such claims, but, if section 4 of this bill is to have the desired effect upon the management and use of surface resources of unpatented mining claims, a procedure to identify which unpatented claims will be subject to its provisions is necessary. In our opinion, the procedure to be established by section 5 would answer this need for it would permit a determination of those valid claims existing prior to the enactment of the bill with respect to which claimants are asserting surface rights adverse to the United States. We do not interpret the provisions of section 5 as impairing authority under existing law to declare mining claims null and void for failure to comply with provisions of law governing such claims. We have also assumed that nothing in the bill would prevent the taking by the United States of any mining claims under the right of eminent domain.

The procedure which section 5 would establish would commence with the secretary of any Federal department, responsible for administering the surface resources of any lands belonging to the United States, filing with the Secretary of the Interior a request for publication of notice to mining claimants for the determination of surface rights. The filing of a request of that nature would be accom-

panied by affidavits of persons who had examined the lands involved in an effort to ascertain whether or not any persons were in possession of or engaged in working the lands; the affidavits would state the names and addresses of all persons so found or, if none were found, would state that fact.

The request would also be accompanied by the certificate of an attorney, a title abstractor, or a title or abstract company, based upon an examination of tract indexes in the county office of record, setting forth the name of any person appearing in those records as having an interest in the lands involved under an unpatented mining claim. The Secretary of the Interior would, upon the receipt of such a request, publish notice to mining claimants in a newspaper having general circulation in the county wherein the lands involved are situated. Any person asserting an unpatented mining claim in those lands would be required to submit, within 150 days, a statement setting forth pertinent information as to his claim, and any claimant failing to submit such a statement would be conclusively deemed to have waived any rights to his claim which would be contrary to the limitations set forth in section 4 of the bill with respect to the use of the surface and to have consented to the subjection of his claim to the provisions of that section. Upon publication of notice in a newspaper, a copy of that notice would be delivered, either in person or by registered mail, to each person whose name and address appear in the affidavits and certificates submitted with the request for publication.

The bill also would provide a method by which any person desirous of receiving notice with respect to any particular lands might file a request for such notice in the appropriate county office of record. If any statement should be filed by a claimant in response to the publication or delivery of notice, the Secretary of the Interior would hold hearings to determine the validity and effectiveness of any right or title to that mining claim, or interest in or under that claim, which is contrary to or in conflict with the provisions relating to the use and management of surface resources, set forth in section 4 of the bill. Such hearings would follow the established general procedures and rules of practice of the Department of the Interior with respect to contests or protests affecting public lands. If, with respect to any person, the requirements as to personal delivery or mailing of notice should not be complied with, that person's rights would be affected in no way by the publication of notice.

Section 6 provides that, while any owner of an unpatented mining claim may waive or relinquish all rights thereunder contrary to or in conflict with the restrictions of section 4, such a waiver or relinquishment will not constitute any concession as to the validity of his claim or as to the date of priority of rights under that claim.

Section 7 provides that the bill will in no way limit or restrict existing rights under any valid mining claim except insofar as those rights are limited or restricted in actions taken pursuant to sections 5 and 6, nor will the bill authorize the inclusion in patents thereafter issued for mining claims of any limitations or restrictions not otherwise authorized by law.

S. 1713 is designed to meet a situation which has arisen because of more intensive Federal use of the public lands in recent years. Under the existing mining laws various abuses have been possible. For example, it has been possible for persons who have unpatented claims under the mining laws to prevent orderly management and disposition of valuable timber and other surface resources, and also to block access to such resources on unlocated Federal land while paying little or no attention to mining. Moreover, many claims have been based on deposits of the mineral materials listed in section 1 which, although technically of sufficient value to justify a location, are actually of minor worth as compared to other natural resources of the land. Another example of these abuses may be seen in the fact that it has been possible to acquire a color of right, through a mining location, for nonmining purposes, such as summer homesites.

This bill is designed to strike at these abuses, which violate the spirit of the mining laws. The bill provides that deposits of common minerals such as ordinary varieties of sand, stone, gravel, pumice, pumicite, and cinders shall not be deemed valuable mineral deposits within the meaning of the mining laws. Secondly, it prohibits the use of a claim for any nonmining purpose prior to the issuance of patent.

The type of practice against which this bill is directed has drawn the disapproval of the mining industry generally, conservation groups, and other public land users. The national interest in encouraging the discovery of minerals dictates that the mining industry should have a continued opportunity to locate mining claims, to mine minerals found there, to discover and develop commercial deposits, and, if fortunate, to make a profit, but the national interest is not served by preventing

the use of the surface of unpatented claims for other desirable uses which do not substantially interfere with mining operations and related activities. This legislation is based upon this sound premise, in our view.

At the same time as the proposed legislation would meet the wishes of the mining industry, it would also give full recognition to the vital importance of the forest and range resources of the public lands and the national forests, for the bill provides for the multiple use of the surface of mining claims and thus permits the conservation and wise use of all surface resources in the public interest.

We have discussed above the need for a procedure for establishing the existence of unpatented mining claims and for determining the respective rights of the United States and holders of unpatented mining claims. Certainly, the procedure which section 5 would establish would eliminate many of the problems relating to ownership and management of surface resources which arise in the case of Government timber sales, grazing permits, and watershed and recreational development. Under the procedure which would be provided by this bill, it is hoped that an area in which a timber sale, for example, was contemplated could be subjected to a conclusive determination of surface rights within a reasonably short time.

We believe that the bill should be amended so that the provisions of sections 1 and 2 would be specifically applicable to the revested Oregon and California Railroad grant lands and the reconveyed Coos Bay Wagon Road grant lands. The other sections of S. 1713 are already applicable to these lands, and there is no reason why these lands should not be subject to the same provisions of law as other public lands in these respects. We suggest, therefore, that there be inserted immediately after "United States," at page 2, line 2, the following: "including for the purposes of this Act land described in the Acts of August 28, 1937 (50 Stat. 874) and of June 24, 1954 (68 Stat. 270)," For the same reason, we also suggest that there be inserted, immediately after "except" at page 3, line 22, the following: "that revenues from the lands described in the Act of August 28, 1937 (50 Stat. 874) and the Act of June 24, 1954 (68 Stat. 270) shall be disposed of in accordance with said Acts and except".

It is also suggested that the language used at the beginning of Section 5 requires clarification. Though the later language of section 5 clearly indicates that its provisions apply to all departments and agencies, the phraseology in the first sentence of the section could well be interpreted as limiting the section's scope to the executive departments only. We suggest, therefore, that all of line 3, page 6, be deleted and the following substituted in its place: "The head of a Federal department or agency."

Certain existing statutes limit or restrict mining activities upon lands owned by the United States, as, for example, the act of April 8, 1948 (62 Stat. 162), which opened the revested Oregon and California Railroad grant lands and the reconveyed Coos Bay Wagon Road grant lands to exploration, location, entry, and disposition under the general mining laws, but which limited, with respect to the timber on those lands, the rights of persons making entry on those lands. We believe it essential that nothing in S. 1713 be interpreted as repealing or amending any of those laws imposing such special limitations or restrictions. Though the existing language of the bill may afford such a guaranty, we suggest that the period at the end of section 7 be replaced by a comma and the following added: "or to limit or repeal any existing authority to include any limitation or restriction in any such patent."

The Bureau of the Budget has advised that there is no objection to the presentation of this report to your committee.

Sincerely yours,

FRED G. AANDAHL,
Assistant Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
Washington, D. C., May 17, 1955.

HON. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,
United States Senate.*

DEAR SENATOR MURRAY: Reference is made to your request of April 20 for a report on S. 1713, a bill to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands and for other purposes.

We strongly recommend early enactment of S. 1713 with one clarifying amendment as subsequently described.

S. 1713 is identical to H. R. 5561, 5563, 5572, 5595, 5742, and almost identical to H. R. 5577.

This bill would apply to all lands of the United States subject to the general mining laws. Its major provisions are—

(1) Common varieties of sand, stone, gravel, pumice, pumicite, and cinders would be removed from the purview of the United States mining laws and made subject to disposal only under the provisions of the Materials Act of July 31, 1947 (61 Stat. 681), by the Secretary of Agriculture for lands under his jurisdiction and by the Secretary of the Interior for other public lands of the United States.

(2) Mining claims located after enactment of the bill could not, prior to patent, be used for other than mining purposes without authorization from the United States, and such locations would be subject to the right of the United States to manage and dispose of the vegetative surface resources, to manage other surface resources thereof (except minerals subject to the mining laws) and to use so much of the surface as necessary for such purposes or for access to adjacent land; provided that any use of the surface by the United States, its permittees or licensees, could not endanger or materially interfere with mining uses. Mining claimants could not use surface resources subject to management and disposal by the United States except to the extent required for mining purposes, and any timber cut for such purposes, except for clearance, must be in accordance with sound principles of forest management.

(3) Under a procedure similar to that provided in Public Law 585 of the 83d Congress, the Secretary of the Interior shall, at the request of the Federal department having the responsibility for administering the surface of lands of the United States, initiate action for a determination of surface rights as to a given area. Under this procedure, a holder of a claim located prior to enactment of this bill could assert and establish his rights in the lands covered by his claim, and such claim would be unaffected by the proceedings. If such a claimant fails to establish his rights, or fails to assert his rights, or if he voluntarily waives his rights to the surface, he will be in the same position as a holder of a claim located after enactment of this bill. The procedure does not affect the right of a claimant to apply for patent, and if patent is granted he would acquire the same title as he would under the existing law.

We believe S. 1713, if enacted, would go far toward correcting some of the very difficult problems confronting this Department in its administration of those national forests and title III Bankhead-Jones lands subject to the general mining laws of the United States. We also believe that for the first time an area of agreement has been reached on this problem between the administrators of public lands under the jurisdiction of both the Departments of the Interior and Agriculture, representatives of the mining industry, and conservation groups.

The Department of Agriculture desires to encourage legitimate prospecting and effective utilization and development of mineral resources of the national forests and title III lands. We would not favor legislation which would interfere with such development of minerals nor work hardship on the bona fide prospector or miner. We also recognize that the mining industry does not condone the use of mining claims on the public lands for other than mining purposes.

However, on the national forests the mining laws are sometimes used to obtain claim or title to valuable timber, summer home sites, or lands blocking access to Government timber and to water needed in the grazing use of the national forests.

As of January 1, 1952, there were 36,600 mining patents on the national forests, covering 918,500 acres. Only about 15 percent of these mining patents have been or are commercially successful mines. As of the same date, there were approximately 84,000 claims, covering 2.2 million acres. Only 2 percent of these claims were producing minerals in commercial quantities and probably not more than 40 percent could be considered valid under the requirements of the mining laws. Yet, on these national-forest claims, there were tied up over 8 billion feet of commercial sawtimber, valued at about \$100 million which the Government could not sell without consent of the claimant. In other words, national-forest timber exceeding in quantity and value that cut from all national forests in any 1 year is tied up on mining claims and cannot be sold by the Government. The two tables attached to this report supply these basic statistics by States.

The effect of this situation is increased costs of administration, obstruction of orderly management and competitive sale of timber, and obtaining high-value, publicly owned surface resources by a few individuals at nominal cost.

In the last 3 years there has been a tremendous increase in the number of mining claims on the national forests, principally as the result of prospecting for uranium and other fissionable materials. For example, as of January 1, 1955, it is estimated that there were 166,000 claims on the national forests, covering nearly 4 million acres, or about a 100-percent increase in the past 3 years. At the rate claims are currently being filed, we estimate that by the end of this calendar year there will be about 225,000 mining claims on the national forests. It is also estimated conservatively that there are now over 10 billion board feet of timber tied up on national-forest mining claims, having a current stumpage value of \$112 million.

Following is an estimate of the number of claims and included acreage by States in the national forests as of January 1, 1955:

State	Thousand claims	1955 claims as multiple of 1952 claims	Thousand acres	1955 acreage as multiple of 1952 acreage
Arizona.....	34.3	6.9	684	6.2
California.....	21.0	1.1	602	1.0
Colorado.....	16.7	1.8	375	1.5
Idaho.....	18.4	1.2	408	1.2
Montana.....	14.6	2.1	282	2.1
Nevada.....	5.2	1.8	108	2.3
New Mexico.....	8.7	3.7	223	2.8
Oregon.....	6.7	.9	215	.8
South Dakota.....	4.8	1.9	103	2.0
Utah.....	28.4	3.6	583	3.2
Washington.....	5.3	1.8	94	1.3
Wyoming.....	2.1	2.5	78	2.4
Total.....	166.2	2.0	3,755	1.7

The number of claims is "snowballing" so fast that the situation on the national forests is rapidly getting out of hand. The above summary, for example, shows that there are nearly 7 times as many mining claims in Arizona as 3 years ago, and nearly 4 times as many in New Mexico and Utah. The increase has been large in other States, too. Equitable corrective action as would be provided by S. 1713 is urgently needed. It is needed quickly because new claims are being filed at the rate of about 5,000 per month.

We suggest the following be added after the word "except" in line 22, page 3: "that revenues from the lands described in the act of August 28, 1937 (50 Stat. 874), and the act of June 24, 1954 (68 Stat. 270), shall be disposed of in accordance with the provisions of such acts, and except".

The purpose of this amendment is to make it clear that revenues from O. and C. lands under the administration of the Department of the Interior and lands administered by the Department of Agriculture under the 1954 act will be placed in the O. and C. fund.

To effectively implement the provisions of S. 1713, particularly those of section 5, it is estimated that about \$750,000 to \$1 million would be needed annually by this Department for roughly a 10-year period, after which costs would drop to a relatively small amount. After claims located prior to enactment of the bill had been processed in accord with section 5, costs relating to this bill would be limited primarily to costs of issuing permits for disposal of materials under the Materials Act. Such costs would be offset in whole or in part by revenues from such permits.

In summary, this Department recommends enactment of S. 1713 since it will do much to solve the serious problems presented by mining claims in the management of public lands and resources. It will correct deficiencies in the mining laws and prevent many of the abuses by other than bona fide miners, but it will not obstruct or interfere with bona fide mineral prospecting, mining, and development. The Department is anxious to see these measures taken and strongly endorses the bill. However, S. 1713 does not include all of the changes in the mining laws which would be desirable from a good public land management standpoint and some problems would remain with respect to mining on the national forests and title III lands that this bill would not correct.

The Bureau of the Budget advises that, from the standpoint of the program of the President, there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE, *Under Secretary.*

*Estimated number of unpatented mining claims on the national forests
(as of Jan. 1, 1952)*

State	Number of claims	Acres	Estimated percent which are producing minerals in commercial quantities	Estimated percent considered valid under the mining laws	Timber on claims	
					Volume (thousand feet, board measure)	1951 value
Arizona.....	5,000	95,400	9.0	22	70,000	\$700,000
California.....	19,640	582,700	.8	30	3,450,000	50,177,000
Colorado.....	9,450	256,000	1.0	37	80,000	368,000
Idaho.....	15,840	355,100	4.3	42	1,170,000	8,425,000
Montana.....	6,869	132,600	1.7	46	85,000	440,000
Nevada.....	2,940	50,700	2.0	60		
New Mexico.....	2,350	81,700	3.0	24	225,000	2,000,000
Oregon.....	7,780	267,300	1.8	55	2,301,000	36,307,000
South Dakota.....	2,600	52,500	4.5	30	81,000	542,000
Utah.....	7,810	185,300	2.0	50	7,000	10,000
Washington.....	2,920	71,700	2.2	52	751,000	4,111,000
Wyoming.....	860	32,900	.6	55	36,000	417,000
Total.....	84,050	2,163,900	2.0	40	8,266,000	103,527,000

Patented mining claims on the national forests (as of Jan. 1, 1952)

State	Number of claims	Acreage	Estimated percent which are or have ever been commercial mining operations
Arizona.....	1,110	53,370	5
California.....	3,068	134,807	14½
Colorado.....	17,000	300,000	12
Idaho.....	3,203	80,802	28
Montana.....	5,124	116,575	17½
Nevada.....	675	12,205	50
New Mexico.....	706	24,498	16
Oregon.....	1,370	26,634	22
South Dakota.....	1,000	74,000	7
Utah.....	1,359	57,210	10
Washington.....	1,184	20,738	8
Wyoming.....	761	17,687	1½
Total.....	36,560	918,526	14¾

EXECUTIVE OFFICE OF THE PRESIDENT,

BUREAU OF THE BUDGET,

Washington 25, D. C., May 17, 1955.

HON. JAMES E. MURRAY,

*Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington 25, D. C.*

MY DEAR MR. CHAIRMAN: This is in reply to the request from your committee for the views of the Bureau of the Budget with respect to S. 687, to authorize the Secretary of Agriculture to protect the timber and other surface values of lands within the national forests, and for other purposes, and S. 1713, to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes. It is our understanding that S. 1713 supersedes S. 687, therefore, our remarks are directed to S. 1713.

This bill would remove common varieties of sand, stone, gravel, pumice, and cinders from the purview of the United States mining laws and make them subject to disposal only under the provisions of the so-called Materials Act of July 31, 1947 (61 Stat. 681). Disposal of such materials would be by the Secretary of Agriculture for lands under his jurisdiction and by the Secretary of the Interior for other public lands.

Mining claims located after enactment of the bill could not, prior to patent, be used for other than mining purposes and such locations would be subject to the right of the United States to manage and dispose of the vegetative surface re-

sources, to manage other surface resources (except minerals subject to location under the United States mining laws) and to use so much of the surface as necessary for such purposes or for access to adjacent land. However, any use of the surface by the United States, its permittees and licensees, must not endanger or materially interfere with mining uses. Locators of mining claims could not use surface resources subject to management and disposal by the United States except to the extent required for mining purposes, and any timber cut for such purposes, except for clearance, must be in accordance with sound principles of forest management. Upon issuance of a patent the owner of the claim would receive the same title to the land, including timber if any, as he would under existing law.

The bill would set forth a procedure whereby the Secretary of the Interior shall, at the request of the Federal Department having the responsibility for administering the surface of the lands, initiate action for a determination of surface rights. Under this procedure, a holder of a claim located prior to enactment of this bill could assert and establish his rights in the lands covered by his claim, and such claim would be unaffected by the proceeding. If the claimant fails to establish his rights, or fails to assert his rights, or if he voluntarily waives his rights to the surface, he will be in the same position as a holder of a claim located after enactment of the bill.

It is our understanding that general agreement has been reached among the mining industry, some conservation groups, and the Federal agencies concerned, and that this general agreement is reflected in the provisions of the bill, which would be of material aid in the management of public lands and their resources in the future.

This Bureau would have no objection to the enactment of S. 1713.

Sincerely yours,

DONALD R. BELCHER,
Assistant Director.

CHANGES IN EXISTING LAW

In compliance with the Cordon rule (subsec. (4) of rule XXIX of the Standing Rules of the Senate), changes in existing law made by the bill, S. 1713, as reported, are shown as follows (existing law proposed to be repealed is enclosed in black brackets, additions to existing law are italicized; existing law in which no change is proposed is shown in roman):

SECTION 1 OF THE ACT OF JULY 31, 1947 (61 STAT. 681)

That the Secretary of the Interior, under such rules and regulations as he may prescribe, may dispose of materials including but not limited to sand, stone, gravel, yucca, manzanita, mesquite, cactus, common clay, and timber or other forest products, on public lands of the United States if the disposal of such materials (1) is not otherwise expressly authorized by law, including the United States mining laws, (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. Such materials may be disposed of only in accordance with the provisions of this Act and upon the payment of adequate compensation therefor, to be determined by the Secretary: *Provided, however,* That, to the extent not otherwise authorized by law, the Secretary is authorized in his discretion to permit any Federal, State, or Territorial agency, unit or subdivision, including municipalities, or any person, or any association or corporation not organized for profit, to take and remove, without charge, materials and resources subject to this Act, for use other than for commercial or industrial purposes or resale. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior or of a State, Territory, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make disposals under this Act only with the consent of such Federal department or agency or of such State, Territory, or local governmental unit. Nothing in this Act shall be construed to apply to lands in any national forest, national park, or national monument or to any Indian lands, or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians.]

The Secretary, under such rules and regulations as he may prescribe, may dispose of mineral materials (including but not limited to common varieties of the following:

sand, stone, gravel, pumice, pumicite, cinders and clay) and vegetative materials (including but not limited to yucca, manzanita, mesquite, cactus, and timber or other forest products) on public lands of the United States, if the disposal of such mineral or vegetative materials (1) is not otherwise expressly authorized by law, including the United States mining laws, and (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. Such materials may be disposed of only in accordance with the provisions of this Act and upon the payment of adequate compensation therefor, to be determined by the Secretary: Provided, however, That, to the extent not otherwise authorized by law, the Secretary is authorized in his discretion to permit any Federal, State, or Territorial agency, unit or subdivision, including municipalities, or any person, or any association or corporation not organized for profit, to take and remove, without charge, materials and resources subject to this Act, for use other than for commercial or industrial purposes or resale. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department headed by the Secretary or of a State, Territory, county, municipality, water district, or other local governmental subdivision or agency, the Secretary may make disposals under this Act only with the consent of such other Federal department or agency or of such State, Territory, or local governmental unit. Nothing in this Act shall be construed to apply to lands in any national park, or national monument or to any Indian lands, or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians. As used in this Act, the word "Secretary" means the Secretary of the Interior except that it means the Secretary of Agriculture where the lands involved are administered by him for national forest purposes or for the purposes of title III of the Bankhead-Jones Farm Tenant Act or where withdrawn for the purpose of any other function of the Department of Agriculture.

SECTION 3 OF THE ACT OF JULY 31, 1947 (61 STAT. 681), AS AMENDED BY THE ACT OF AUGUST 31, 1950 (64 STAT. 571)

[SEC. 3. All moneys received from the disposal of materials under this Act shall be disposed of in the same manner as moneys received from the sale of public lands, except that moneys received from the disposal of materials from school section lands in Alaska, reserved under section 1 of the Act of March 4, 1915 (38 Stat. 1214; 48 U. S. C., sec. 353), shall be set apart as separate and permanent funds in the Territorial Treasury as provided for income derived from said school section lands pursuant to said Act.]

All moneys received from the disposal of materials under this Act shall be disposed of in the same manner as moneys received from the sale of public lands, except that moneys received from the disposal of materials by the Secretary of Agriculture shall be disposed of in the same manner as other moneys received by the Department of Agriculture from the administration of the lands from which the disposal of materials is made, and except that moneys received from the disposal of materials from school section lands in Alaska, reserved under section 1 of the Act of March 4, 1915 (38 Stat. 1214), shall be set apart as separate and permanent funds in the Territorial Treasury, as provided for income derived from said school section lands pursuant to said Act.

INDIVIDUAL VIEWS OF SENATOR RICHARD L. NEUBERGER, OF OREGON

I have joined in the committee's report on S. 1713, which I believe makes some long-needed improvements in public-land administration in areas where prospecting is prevalent. I want to make it clear, however, that in my own view the bill fails to go far enough and should not be mistaken for a permanent solution to the problems of the multiple use of the surface and subsurface of the public lands.

This bill fails to correct one glaring defect in the mining laws. It will still be legal, by proving a mining patent to public land, to convert to commercial gain the timber growing on that land—even though the timber has no relation to the mineral deposits, the discovery and development of which are the justification of the patent.

The committee report recognizes that this practice is against the public interest and deters sound conservation practices, and that in a number of national forests the separation of surface rights from mineral rights has by law been extended to mining patents as well as mining claims. I believe this loophole should be closed by general legislation for all federally owned timberlands.

RICHARD L. NEUBERGER.

S. 1713

[Report No. 554]

IN THE SENATE OF THE UNITED STATES

APRIL 18, 1955

Mr. ANDERSON (for himself, Mr. BARRETT, Mr. BENNETT, Mr. WATKINS), and Mr. AIKEN) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

JUNE 15 (legislative day, JUNE 14), 1955

Reported by Mr. ANDERSON, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend the Act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 1 of the Act of July 31, 1947 (61 Stat. 681).
4 is amended to read as follows:

5 “SECTION 1. The Secretary, under such rules and regu-
6 lations as he may prescribe, may dispose of mineral mate-
7 rials (including but not limited to *common varieties of the*
8 *following*: sand, stone, gravel, pumice, pumicite, cinders,

1 and clay) and vegetative materials (including but not limited
2 to yucca, manzanita, mesquite, cactus, and timber or other
3 forest products) on public lands of the United States,
4 including, for the purposes of this Act, land described
5 in the Acts of August 28, 1937 (50 Stat. 874), and of June
6 24, 1954 (68 Stat. 270), if the disposal of such mineral or
7 vegetative materials (1) is not otherwise expressly author-
8 ized by law, including, but not limited to, the Act of June
9 28, 1934 (48 Stat. 1269), as amended, and the United
10 States mining laws, and (2) is not expressly prohibited
11 by laws of the United States, and (3) would not
12 be detrimental to the public interest. Such materials
13 may be disposed of only in accordance with the
14 provisions of this Act and upon the payment of ad-
15 equate compensation therefor, to be determined by the
16 Secretary: *Provided, however,* That, to the extent not other-
17 wise authorized by law, the Secretary is authorized in his
18 discretion to permit any Federal, State, or Territorial agency,
19 unit or subdivision, including municipalities, ~~or any person,~~
20 or any association or corporation not organized for profit,
21 to take and remove, without charge, materials and resources
22 subject to this Act, for use other than for commercial or
23 industrial purposes or resale. Where the lands have been
24 withdrawn in aid of a function of a Federal department
25 or agency other than the department headed by the Secre-

1 tary or of a State, Territory, county, municipality, water
2 district or other local governmental subdivision or agency,
3 the Secretary may make disposals under this Act only with
4 the consent of such other Federal department or agency or
5 of such State, Territory, or local governmental unit. Noth-
6 ing in this Act shall be construed to apply to lands in any
7 national park, or national monument or to any Indian lands,
8 or lands set aside or held for the use or benefit of Indians,
9 including lands over which jurisdiction has been transferred
10 to the Department of the Interior by Executive order for
11 the use of Indians. As used in this Act, the word "Secre-
12 tary" means the Secretary of the Interior except that it
13 means the Secretary of Agriculture where the lands in-
14 volved are administered by him for national forest purposes
15 or for the purposes of title III of the Bankhead-Jones Farm
16 Tenant Act or where withdrawn for the purpose of any other
17 function of the Department of Agriculture."

18 SEC. 2. That section 3 of the Act of July 31, 1947 (61
19 Stat. 681), as amended by the Act of August 31, 1950 (64
20 Stat. 571), is amended to read as follows:

21 "All moneys received from the disposal of materials
22 under this Act shall be disposed of in the same manner as
23 moneys received from the sale of public lands, except that
24 moneys received from the disposal of materials by the Secre-
25 tary of Agriculture shall be disposed of in the same manner

1 as other moneys received by the Department of Agriculture
2 from the administration of the lands from which the disposal
3 of materials is made, and except *that revenues from the lands*
4 *described in the Act of August 28, 1937 (50 Stat. 874),*
5 *and the Act of June 24, 1954 (68 Stat. 270), shall be dis-*
6 *posed of in accordance with said Acts and except that moneys*
7 *received from the disposal of materials from school section*
8 *lands in Alaska, reserved under section 1 of the Act of*
9 *March 4, 1915 (38 Stat. 1214), shall be set apart as*
10 *separate and permanent funds in the Territorial Treasury,*
11 *as provided for income derived from said school section lands*
12 *pursuant to said Act."*

13 SEC. 3. A deposit of common varieties of sand, stone,
14 gravel, pumice, pumicite, or cinders shall not be deemed a
15 valuable mineral deposit within the meaning of the mining
16 laws of the United States so as to give effective validity to
17 any mining claim hereafter located under such mining laws:
18 *Provided, however,* That nothing herein shall affect the valid-
19 ity of any mining location based upon discovery of some other
20 mineral occurring in or in association with such a deposit.
21 "Common varieties" as used in this Act does not include
22 deposits of such materials which are valuable because the
23 deposit has some property giving it distinct and special value
24 and does not include so-called "block pumice" which occurs

1 in nature in pieces having one dimension of two inches or
2 more.

3 SEC. 4. (a) Any mining claim hereafter located under
4 the mining laws of the United States shall not be used, prior
5 to issuance of patent therefor, for any purposes other than
6 prospecting, mining or processing operations and uses rea-
7 sonably incident thereto.

8 (b) Rights under any mining claim hereafter located
9 under the mining laws of the United States shall be subject,
10 prior to issuance of patent therefor, to the right of the United
11 States to manage and dispose of the vegetative surface re-
12 sources thereof and to manage other surface resources there-
13 of (except mineral deposits subject to location under the
14 mining laws of the United States). Any such mining claim
15 shall also be subject, prior to issuance of patent therefor, to
16 the right of the United States, its permittees and licensees,
17 to use so much of the surface thereof as may be necessary for
18 such purposes or for access to adjacent land: *Provided, how-*
19 *ever,* That any use of the surface of any such mining claim by
20 the United States, its permittees or licensees, shall be such as
21 not to endanger or materially interfere with prospecting,
22 mining or processing operations or uses reasonably incident
23 thereto: *Provided further,* That if at any time the locator
24 requires more timber for his mining operations than is avail-

1 *able to him from the claim after disposition of timber there-*
2 *from by the United States, he shall be entitled, free of charge,*
3 *to be supplied with timber for such requirements from the*
4 *nearest timber administered by the disposing agency which is*
5 *ready for harvesting under the rules and regulations of*
6 *that agency and which is substantially equivalent in kind and*
7 *quantity to the timber estimated by the disposing agency to*
8 *have been disposed of from the claim: Provided further,*
9 *That nothing in this Act shall be construed as affecting or*
10 *intended to affect or in any way interfere with or modify the*
11 *laws of the States which lie wholly or in part westward of*
12 *the ninety-eighth meridian relating to the ownership, control,*
13 *appropriation, use, and distribution of ground or surface*
14 *waters within any unpatented mining claim.*

15 (c) Except to the extent required for the mining claim-
16 ant's prospecting, mining or processing operations and uses
17 reasonably incident thereto, or for the construction of build-
18 ings or structures in connection therewith, or to provide
19 clearance for such operations or uses, or to the extent author-
20 ized by the United States, no claimant of any mining claim
21 hereafter located under the mining laws of the United States
22 shall, prior to issuance of patent therefor, sever, remove, or
23 use any vegetative or other surface resources thereof which
24 are subject to management or disposition by the United
25 States under the preceding subsection (b). Any severance

1 or removal of timber which is permitted under the exceptions
2 of the preceding sentence, other than severance or removal
3 to provide clearance, shall be in accordance with sound prin-
4 ciples of forest management.

5 SEC. 5. (a) ~~The Secretary of the Federal Department~~
6 *The head of a Federal department or agency* which has
7 the responsibility for administering surface resources of any
8 lands belonging to the United States may file as to such
9 lands in the office of the Secretary of the Interior, or in
10 such office as the Secretary of the Interior may designate,
11 a request for publication of notice to mining claimants, for
12 determination of surface rights, which request shall contain
13 a description of the lands covered thereby, showing the
14 section or sections of the public land surveys which embrace
15 the lands covered by such request, or if such lands are un-
16 surveyed, either the section or sections which would proba-
17 bly embrace such lands when the public land surveys are
18 extended to such lands or a tie by courses and distances to
19 an approved United States mineral monument.

20 The filing of such request for publication shall be accom-
21 panied by an affidavit or affidavits of a person or persons
22 over twenty-one years of age setting forth that the affiant or
23 affiants have examined the lands involved in a reasonable
24 effort to ascertain whether any person or persons were in
25 actual possession of or engaged in the working of such lands

1 or any part thereof, and, if no person or persons were found
2 to be in actual possession of or engaged in the working of
3 said lands or any part thereof on the date of such examina-
4 tion, setting forth such fact, or, if any person or persons
5 were so found to be in actual possession or engaged in such
6 working on the date of such examination, setting forth the
7 name and address of each such person, unless affiant shall
8 have been unable through reasonable inquiry to obtain in-
9 formation as to the name and address of any such person,
10 in which event the affidavit shall set forth fully the nature
11 and results of such inquiry.

12 The filing of such request for publication shall also be
13 accompanied by the certificate of a title or abstract com-
14 pany, or of a title abstractor, or of an attorney, based upon
15 such company's abstractor's, or attorney's examination of
16 those instruments which are shown by the tract indexes in
17 the county office of record as affecting the lands described
18 in said request, setting forth the name of any person dis-
19 closed by said instruments to have an interest in said lands
20 under any unpatented mining claim heretofore located, to-
21 gether with the address of such person if such address is
22 disclosed by such instruments of record. "Tract indexes" as
23 used herein shall mean those indexes, if any, as to surveyed
24 lands identifying instruments as affecting a particular legal
25 subdivision of the public land surveys, and as to unsurveyed

1 lands identifying instruments as affecting a particular prob-
2 able legal subdivision according to a projected extension of
3 the public land surveys.

4 Thereupon the Secretary of the Interior, at the expense
5 of the requesting department or agency, shall cause notice
6 to mining claimants to be published in a newspaper having
7 general circulation in the county in which the lands involved
8 are situate.

9 Such notice shall describe the lands covered by such
10 request, as provided heretofore, and shall notify whomever
11 it may concern that if any person claiming or asserting
12 under, or by virtue of, any unpatented mining claim here-
13 tofore located, rights as to such lands or any part thereof,
14 shall fail to file in the office where such request for pub-
15 lication was filed (which office shall be specified in such
16 notice) and within one hundred and fifty days from the date
17 of the first publication of such notice (which date shall be
18 specified in such notice), a verified statement which shall
19 set forth, as to such unpatented mining claim—

20 (1) the date of location;

21 (2) the book and page of recordation of the notice
22 or certificate of location;

23 (3) the section or sections of the public land sur-
24 veys which embrace such mining claim; or if such lands

are unsurveyed, either the section or sections which would probably embrace such mining claim when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument;

(4) whether such claimant is a locator or purchaser under such location; and

(5) the name and address of such claimant and names and addresses so far as known to the claimant of any other person or persons claiming any interest or interests in or under such unpatented mining claim;

such failure shall be conclusively deemed (i) to constitute a waiver and relinquishment by such mining claimant of any right, title, or interest under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, and (ii) to constitute a consent by such mining claimant that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, and (iii) to preclude thereafter, prior to issuance of patent, any assertion by such mining claimant of any right or title to or interest in or under such mining claim contrary to or in conflict with the limitations or

1 restrictions specified in section 4 of this Act as to hereafter
2 located unpatented mining claims.

3 If such notice is published in a daily paper, it shall be
4 published in the Wednesday issue for nine consecutive weeks,
5 or, if in a weekly paper, in nine consecutive issues, or if in
6 a semiweekly or triweekly paper, in the issue of the same
7 day of each week for nine consecutive weeks.

8 Within fifteen days after the date of first publication of
9 such notice, the department or agency requesting such pub-
10 lication (1) shall cause a copy of such notice to be person-
11 ally delivered to or to be mailed by registered mail addressed
12 to each person in possession or engaged in the working of
13 the land whose name and address is shown by an affidavit
14 filed as aforesaid, and to each person who may have filed,
15 as to any lands described in said notice, a request for notices,
16 as provided in subsection (d) of this section 5, and shall
17 cause a copy of such notice to be mailed by registered mail to
18 each person whose name and address is set forth in the title
19 or abstract company's or title abstractor's or attorney's certifi-
20 cate filed as aforesaid, as having an interest in the lands
21 described in said notice under any unpatented mining claim
22 heretofore located, such notice to be directed to such person's
23 address as set forth in such certificate; and (2) shall file in
24 the office where said request for publication was filed an

1 affidavit showing that copies have been so delivered or
2 mailed.

3 (b) If any claimant under any unpatented mining claim
4 heretofore located which embraces any of the lands described
5 in any notice published in accordance with the provisions of
6 subsection (a) of this section 5, shall fail to file a verified
7 statement, as above provided, within one hundred and fifty
8 days from the date of the first publication of such notice, such
9 failure shall be conclusively deemed, except as otherwise
10 provided in subsection (e) of this section 5, (i) to constitute
11 a waiver and relinquishment by such mining claimant of any
12 right, title, or interest under such mining claim contrary to
13 or in conflict with the limitations or restrictions specified in
14 section 4 of this Act as to hereafter located unpatented
15 mining claims, and (ii) to constitute a consent by such
16 mining claimant that such mining claim, prior to issuance of
17 patent therefor, shall be subject to the limitations and restric-
18 tions specified in section 4 of this Act as to hereafter located
19 unpatented mining claims, and (iii) to preclude thereafter,
20 prior to issuance of patent, any assertion by such mining
21 claimant of any right or title to or interest in or under such
22 mining claim contrary to or in conflict with the limitations or
23 restrictions specified in section 4 of this Act as to hereafter
24 located unpatented mining claims.

25 (c) If any verified statement shall be filed by a mining

1 claimant as provided in subsection (a) of this section 5,
2 then the Secretary of the Interior shall fix a time and place
3 for a hearing to determine the validity and effectiveness of
4 any right or title to, or interest in or under such mining
5 claim, which the mining claimant may assert contrary to
6 or in conflict with the limitations and restrictions specified
7 in section 4 of this Act as to hereafter located unpatented
8 mining claims, which place of hearing shall be in the county
9 where the lands in question or parts thereof are located,
10 unless the mining claimant agrees otherwise. Where veri-
11 fied statements are filed asserting rights to an aggregate of
12 more than twenty mining claims, any single hearing shall
13 be limited to a maximum of twenty mining claims unless
14 the parties affected shall otherwise stipulate and as many
15 separate hearings shall be set as shall be necessary to comply
16 with this provision. The procedures with respect to notice
17 of such a hearing and the conduct thereof, and in respect
18 to appeals shall follow the then established general pro-
19 cedures and rules of practice of the Department of the In-
20 terior in respect to contests or protests affecting public lands
21 of the United States. If, pursuant to such a hearing the
22 final decision rendered in the matter shall affirm the validity
23 and effectiveness of any mining claimant's so asserted right
24 or interest under the mining claim, then no subsequent pro-
25 ceedings under this section 5 of this Act shall have any force

1 or effect upon the so-affirmed right or interest of such mining
2 claimant under such mining claim. If at any time prior to
3 a hearing the department or agency requesting publication
4 of notice and any person filing a verified statement pursuant
5 to such notice shall so stipulate, then to the extent so stipu-
6 lated, but only to such extent, no hearing shall be held with
7 respect to rights asserted under that verified statement, and
8 to the extent defined by the stipulation the rights asserted
9 under that verified statement shall be deemed to be un-
10 affected by that particular published notice.

11 (d) Any person claiming any right under or by virtue
12 of any unpatented mining claim heretofore located and desir-
13 ing to receive a copy of any notice to mining claimants
14 which may be published as above provided in subsection (a)
15 of this section 5, and which may affect lands embraced in
16 such mining claim, may cause to be filed for record in the
17 county office of record where the notice or certificate of loca-
18 tion of such mining claim shall have been recorded, a duly
19 acknowledged request for a copy of any such notice. Such
20 request for copies shall set forth the name and address of the
21 person requesting copies and shall also set forth, as to each
22 heretofore located unpatented mining claim under which
23 such person asserts rights—

1 (1) the date of location;

2 (2) the book and page of the recordation of the
3 notice or certificate of location; and

4 (3) the section or sections of the public land sur-
5 veys which embrace such mining claim; or if such lands
6 are unsurveyed, either the section or sections which
7 would probably embrace such mining claim when the
8 public land surveys are extended to such lands or a
9 tie by courses and distances to an approved United
10 States mineral monument.

11 Other than in respect to the requirements of subsection (a)
12 of this section 5 as to personal delivery or mailing of copies
13 of notices and in respect to the provisions of subsection (e)
14 of this section 5, no such request for copies of published
15 notices and no statement or allegation in such request and no
16 recordation thereof shall affect title to any mining claim or
17 to any land or be deemed to constitute constructive notice
18 to any person that the person requesting copies has, or
19 claims, any right, title, or interest in or under any mining
20 claim referred to in such request.

21 (e) If any department or agency requesting publica-
22 tion shall fail to comply with the requirements of subsection
23 (a) of this section 5 as to the personal delivery or mailing

1 of a copy of notice to any person, the publication of such
2 notice shall be deemed wholly ineffectual as to that person
3 or as to the rights asserted by that person and the failure
4 of that person to file a verified statement, as provided in such
5 notice, shall in no manner affect, diminish, prejudice or bar
6 any rights of that person.

7 SEC. 6. The owner or owners of any unpatented mining
8 claim heretofore located may waive and relinquish all rights
9 thereunder which are contrary to or in conflict with the limi-
10 tations or restrictions specified in section 4 of this Act as to
11 hereafter located unpatented mining claims. The execution
12 and acknowledgment of such a waiver and relinquishment
13 by such owner or owners and the recordation thereof in the
14 office where the notice or certificate of location of such min-
15 ing claim is of record shall render such mining claim there-
16 after and prior to issuance of patent subject to the limitations
17 and restrictions in section 4 of this Act in all respects as if
18 said mining claim had been located after enactment of this
19 Act, but no such waiver or relinquishment shall be deemed
20 in any manner to constitute any concession as to the date of
21 priority of rights under said mining claim or as to the validity
22 thereof.

23 SEC. 7. Nothing in this Act shall be construed in any
24 manner to limit or restrict or to authorize the limitation or
25 restriction of any existing rights of any claimant under any

1 valid mining claim heretofore located, except as such rights
2 may be limited or restricted as a result of a proceeding pur-
3 suant to section 5 of this Act, or as a result of a waiver and
4 relinquishment pursuant to section 6 of this Act; and nothing
5 in this Act shall be construed in any manner to authorize
6 inclusion in any patent hereafter issued under the mining
7 laws of the United States for any mining claim heretofore
8 or hereafter located, of any *reservation*, limitation, or restric-
9 tion not otherwise authorized by law, *or to limit or repeal any*
10 *existing authority to include any reservation, limitation, or*
11 *restriction in any such patent, or to limit or restrict any use*
12 *of the lands covered by any patented or unpatented mining*
13 *claim by the United States, its lessees, permittees, and licensees*
14 *which is otherwise authorized by law.*

84TH CONGRESS
1ST SESSION

S. 1713

[Report No. 554]

A BILL

To amend the Act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

By Mr. ANDERSON, Mr. BARRETT, Mr. BENNETT,
Mr. WATKINS, and Mr. AIKEN

APRIL 18, 1955
Read twice and referred to the Committee on Interior
and Insular Affairs

JUNE 15 (legislative day, JUNE 14), 1955
Reported with amendments

16. SELECTIVE SERVICE. House conferees were appointed on H. R. 3005, to extend selective service for 4 years until July 1, 1959 (pp. 7436-7). Senate conferees were appointed June 16.
17. REORGANIZATION. Both Houses received the report of the "Hoover Commission" on budget and accounting (H. Doc. 192) and the reports of its task forces on food and clothing, lending agencies, transportation, research activities, legal services and procedure, and surplus property (p. 7360).
18. APPROPRIATIONS. Received from the President a draft of a proposed provision making various appropriations for 1956, including CCC and the Office of the Secretary of Agriculture, available to provide for uniform allowances; to Appropriations Committee (H. Doc. 185, Cong. Rec. June 15, 1955, p. 7128).
19. FORESTRY. Passed as reported H. R. 5891, to amend the mining laws to provide for multiple use of the surface of the same tracts of public lands (pp. 7453-9).
Passed with amendment S. 1464, to authorize the Interior Department to acquire rights-of-way and existing connecting roads adjacent to public lands to provide timber access roads to public lands under Interior's jurisdiction (p. 7443).
20. LIVESTOCK LOANS. Passed without amendment H. R. 4915, to extend for an additional 2 years the period for special livestock and assistance to farmers and stockmen (p. 7443).
21. TRAVEL EXPENSE. Passed, 320 to 41, as reported, H. R. 6295, which provides as follows: Amends the Travel Expense Act of 1949 by raising the maximum per diem allowance for subsistence and travel expenses for regular Government employees from the present \$9 per day to \$13 per day. Permits heads of departments and agencies to prescribe conditions under which reimbursement may be made for the actual and necessary expenses of a trip in unusual circumstances where the expenses exceed the maximum per diem amount authorized. This could be done before or after the trip depending on the circumstances. Such reimbursement could not, however, exceed the sum of \$25 per day. This could only be done under general regulations promulgated by the Budget Bureau. Amends the Administrative Expenses Act of 1946 by increasing the per diem rate for those who serve the Government without compensation from the present \$10 per day to \$15 per day and also includes an actual expense proviso not to exceed \$25 per day. (pp. 7464-8.)
22. FARM PRICES. Rep. Christopher discussed "what this administration is costing the American farmer" and alleged decline in the value of the farmer's land, buildings, and livestock (pp. 7467-8).
23. PROPERTY; SUPPLIES. Both Houses received from the Comptroller General a report on the audit of the general supply fund, GSA, for the period from July 1, 1949, through June 30, 1953; to Government Operations Committee (pp. 7360, 7488).
24. CUSTOMS SIMPLIFICATION. The Ways and Means Committee reported with amendment H. R. 6040, to amend certain administrative provisions of the Tariff Act of 1930 and to repeal obsolete provisions of the customs laws (H. Rept. 858) (p. 7488).

25. TRADE AGREEMENTS. The Ways and Means Committee ordered reported H. R. 6059, to authorize the President to enter into an agreement with the Philippines to revise the 1946 trade agreement between the two countries (p. D582).
26. LEGISLATIVE PROGRAM. The "Daily Digest" states the conference reports on the salt-water research and Federal reclamation projects bills will be acted upon today, to be followed by the call of the Private Calendar and consideration of the Trinity River division of the Central Valley project, Calif. (p. D580).

BILLS INTRODUCED

27. WATER CONSERVATION. S. 2276, by Sen. Aiken, to authorize the Secretary of Agriculture to provide for payment by the Federal Government of a portion of the costs of certain works of improvement constructed for purposes of water conservation; to Agriculture and Forestry Committee (p. 7364).
28. FARM WEEK. S. J. Res. 79, by Sen. Ellender (for himself and Sen. Young), designating the last week in October of each year as National Farm-City Week; to Judiciary Committee (p. 7364).
29. SELECTIVE SERVICE. H. R. 6900, by Rep. Vinson, to provide for the strengthening of the Reserve Forces; to Armed Services Committee (p. 7488).
30. PERSONNEL. H. R. 6903, by Rep. Dowdy, to amend the Federal Employees' Group Life Insurance Act of 1954; to Post Office and Civil Service Committee (p. 7488).
31. SUGAR. H. R. 6910, by Rep. Sheehan, to amend and extend the Sugar Act of 1948, as amended, with respect to determination of sugar quotas; to Agriculture Committee (p. 7488).
32. FARM LOANS. H. R. 6914, by Rep. Cooley, to amend the Bankhead-Jones Farm Tenant Act, as amended, to modify, clarify, and provide additional authority for insurance of loans; to Agriculture Committee (p. 7489).
33. FARM PROGRAM. H. R. 6918, by Rep. Gathings, "to amend the Agricultural Adjustment Act of 1938, as amended;" to Agriculture Committee (p. 7489).
34. FOREIGN AID. H. R. 6922, by Rep. Richards, to amend the Mutual Security Act of 1954; to Foreign Affairs Committee (p. 7489).
35. BUDGETING. H. J. Res. 346, by Rep. Cannon, to supplement control of the budget; to Government Operations Committee (p. 7489).

ITEMS IN APPENDIX

36. FARM PRODUCTION. Rep. Dolliver inserted an article from a farm journal stating that Iowa leads the top 200 counties of the country in farm income (p. A4417).
37. RECLAMATION; ELECTRIFICATION. Rep. Dixon cited the success of the Strawberry project, one of the oldest reclamation projects in the country, as a factor in evaluating the worth of the Colorado River storage project which is now under consideration (pp. A4418-9).
- Sen. Magnuson inserted a Christian Science Monitor article describing the proposed Mica Creek storage dam project, to be financed by public and private power utilities in the Puget Sound area (p. A4439).

84TH CONGRESS
1ST SESSION

H. R. 5891

IN THE SENATE OF THE UNITED STATES

JUNE 21 (legislative day, JUNE 20), 1955

Received

AN ACT

To amend the Act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That section 1 of the Act of July 31, 1947 (61 Stat. 681)
4 is amended to read as follows:

5 “SEC. 1. The Secretary, under such rules and regulations
6 as he may prescribe, may dispose of mineral materials (includ-
7 ing but not limited to, sand, stone, gravel, pumice, pumicite,
8 cinders and clay) and vegetative materials (including but
9 not limited to yucca, manzanita, mesquite, cactus, and timber
10 or other forest products) on public lands of the United

1 States, including for the purposes of this Act land described
2 in the Acts of August 28, 1937 (50 Stat. 874) and of June
3 24, 1954 (68 Stat. 270), if the disposal of such mineral or
4 vegetative materials (1) is not otherwise expressly author-
5 ized by law, including the United States mining laws, and
6 (2) is not expressly prohibited by laws of the United States,
7 and (3) would not be detrimental to the public interest.
8 Such materials may be disposed of only in accordance with
9 the provisions of this Act and upon the payment of adequate
10 compensation therefor, to be determined by the Secretary:
11 *Provided, however,* That, to the extent not otherwise author-
12 ized by law, the Secretary is authorized in his discretion to
13 permit any Federal, State, or Territorial agency, unit or subdi-
14 vision, including municipalities, or any person, or any associa-
15 tion or corporation not organized for profit, to take and remove,
16 without charge, materials and resources subject to this Act,
17 for use other than for commercial or industrial purposes or
18 resale. Where the lands have been withdrawn in aid of a
19 function of a Federal department or agency other than the
20 Department headed by the Secretary or of a State, Territory,
21 county, municipality, water district, or other local govern-
22 mental subdivision or agency, the Secretary may make
23 disposals under this Act only with the consent of such other
24 Federal department or agency or of such State, Territory,
25 or local governmental unit. Nothing in this Act shall be

1 construed to apply to lands in any national park, or national
2 monument or to any Indian lands, or lands set aside or held
3 for the use or benefit of Indians, including lands over which
4 jurisdiction has been transferred to the Department of the
5 Interior by Executive order for the use of Indians. As used
6 in this Act, the word 'Secretary' means the Secretary of the
7 Interior except that it means the Secretary of Agriculture
8 where the lands involved are administered by him for
9 national forest purposes or for the purposes of title III of the
10 Bankhead-Jones Farm Tenant Act or where withdrawn for
11 the purpose of any other function of the Department of
12 Agriculture: *Provided*, That, notwithstanding any other
13 provisions of law, such leases or permits may be issued for
14 lands administered for national park, monument, and wild-
15 life purposes only when the President, by Executive order,
16 finds and declares that such action is necessary in the
17 interests of national defense."

18 SEC. 2. That section 3 of the Act of July 31, 1947 (61
19 Stat. 681), as amended by the Act of August 31, 1950
20 (64 Stat. 571), is amended to read as follows:

21 "All moneys received from the disposal of materials
22 under this Act shall be disposed of in the same manner as
23 moneys received from the sale of public lands, except that
24 moneys received from the disposal of materials by the
25 Secretary of Agriculture shall be disposed of in the same

1 manner as other moneys received by the Department of
2 Agriculture from the administration of the lands from which
3 the disposal of materials is made, and except that revenues
4 from the lands described in the Act of August 28, 1937 (50
5 Stat. 874) and the Act of June 24, 1954 (68 Stat. 270) shall
6 be disposed of in accordance with said Acts and except that
7 moneys received from the disposal of materials from school
8 section lands in Alaska, reserved under section 1 of the Act
9 of March 4, 1915 (38 Stat. 1214), shall be set apart as sep-
10 arate and permanent funds in the Territorial treasury, as
11 provided for income derived from said school section lands
12 pursuant to said Act.”

13 SEC. 3. A deposit of common varieties of sand, stone,
14 gravel, pumice, pumicite, or cinders shall not be deemed a
15 valuable mineral deposit within the meaning of the mining
16 laws of the United States so as to give effective validity to
17 any mining claim hereafter located under such mining laws:
18 *Provided, however,* That nothing herein shall affect the va-
19 lidity of any mining location based upon discovery of some
20 other mineral occurring in or in association with such a
21 deposit. “Common varieties” as used in this Act does not
22 include deposits of such materials which are valuable because
23 the deposit has some property giving it distinct and special
24 value and does not include so-called “block pumice” which

1 occurs in nature in pieces having one dimension of two
2 inches or more.

3 SEC. 4. (a) Any mining claim hereafter located under
4 the mining laws of the United States shall not be used, prior
5 to issuance of patent therefor, for any purposes other than
6 prospecting, mining, or processing operations and uses rea-
7 sonably incident thereto.

8 (b) Rights under any mining claim hereafter located
9 under the mining laws of the United States shall be subject,
10 prior to issuance of patent therefor, to the right of the United
11 States to manage and dispose of the vegetative surface re-
12 sources thereof and to manage other surface resources
13 thereof (except mineral deposits subject to location
14 under the mining laws of the United States). Any such
15 mining claim shall also be subject, prior to issuance of patent
16 therefor, to the right of the United States, its permittees and
17 licensees, to use so much of the surface thereof as may be
18 necessary for such purposes or for access to adjacent land:
19 *Provided, however,* That any use of the surface of any such
20 mining claim by the United States, its permittees or licensees,
21 shall be such as not to endanger or materially interfere with
22 prospecting, mining, or processing operations or uses rea-
23 sonably incident thereto.

24 (c) Except to the extent required for the mining claim-

1 ant's prospecting, mining, or processing operations and uses
2 reasonably incident thereto, or for the construction of build-
3 ings or structures in connection therewith, or to provide
4 clearance for such operations or uses, or to the extent au-
5 thorized by the United States, no claimant of any mining
6 claim hereafter located under the mining laws of the United
7 States shall, prior to issuance of patent therefor, sever, re-
8 move or use any vegetative or other surface resources thereof
9 which are subject to management or disposition by the
10 United States under the preceding subsection (b). Any
11 severance or removal of timber which is permitted under
12 the exceptions of the preceding sentence, other than sever-
13 ance or removal to provide clearance, shall be in accordance
14 with sound principles of forest management.

15 SEC. 5. (a) The head of a Federal department or
16 agency which has the responsibility for administering surface
17 resources of any lands belonging to the United States may
18 file as to such lands in the office of the Secretary of the
19 Interior, or in such office as the Secretary of the Interior
20 may designate, a request for publication of notice to mining
21 claimants, for determination of surface rights, which request
22 shall contain a description of the lands covered thereby,
23 showing the section or sections of the public land surveys
24 which embrace the lands covered by such request, or if such
25 lands are unsurveyed, either the section or sections which

1 would probably embrace such lands when the public land
2 surveys are extended to such lands or a tie by courses and
3 distances to an approved United States mineral monument.

4 The filing of such request for publication shall be accom-
5 panied by an affidavit or affidavits of a person or persons
6 over twenty-one years of age setting forth that the affiant
7 or affiants have examined the lands involved in a reasonable
8 effort to ascertain whether any person or persons were in
9 actual possession of or engaged in the working of such lands
10 or any part thereof, and, if no person or persons were found
11 to be in actual possession of or engaged in the working of
12 said lands or any part thereof on the date of such examina-
13 tion, setting forth such fact, or, if any person or persons were
14 so found to be in actual possession or engaged in such working
15 on the date of such examination, setting forth the name and
16 address of each such person, unless affiant shall have been
17 unable through reasonable inquiry to obtain information as
18 to the name and address of any such person, in which event
19 the affidavit shall set forth fully the nature and results of
20 such inquiry.

21 The filing of such request for publication shall also be
22 accompanied by the certificate of a title or abstract company,
23 or of a title abstractor, or of an attorney, based upon such
24 company's, abstractor's, or attorney's examination of those
25 instruments which are shown by the tract indexes in the

1 county office of record as affecting the lands described in
2 said request, setting forth the name of any person disclosed
3 by said instruments to have an interest in said lands under
4 any unpatented mining claim heretofore located, together
5 with the address of such person if such address is disclosed
6 by such instruments of record. "Tract indexes" as used
7 herein shall mean those indexes, if any, as to surveyed lands
8 identifying instruments as affecting a particular legal sub-
9 division of the public land surveys, and as to unsurveyed
10 lands identifying instruments as affecting a particular prob-
11 able legal subdivision according to a projected extension
12 of the public land surveys.

13 Thereupon the Secretary of the Interior, at the expense
14 of the requesting department or agency, shall cause notice
15 to mining claimants to be published in a newspaper having
16 general circulation in the county in which the lands involved
17 are situate.

18 Such notice shall describe the lands covered by such
19 request, as provided heretofore, and shall notify whomever
20 it may concern that if any person claiming or asserting
21 under, or by virtue of, any unpatented mining claim hereto-
22 fore located, rights as to such lands or any part thereof,
23 shall fail to file in the office where such request for publica-
24 tion was filed (which office shall be specified in such notice)
25 and within one hundred fifty days from the date of the

1 first publication of such notice (which date shall be specified
2 in such notice), a verified statement which shall set forth,
3 as to such unpatented mining claim—

4 (1) the date of location;

5 (2) the book and page of recordation of the notice
6 or certificate of location;

7 (3) the section or sections of the public land sur-
8 veys which embrace such mining claim; or if such lands
9 are unsurveyed, either the section or sections which
10 would probably embrace such mining claim when the
11 public land surveys are extended to such lands or a tie
12 by courses and distances to an approved United States
13 mineral monument;

14 (4) whether such claimant is a locator or purchaser
15 under such location; and

16 (5) the name and address of such claimant and
17 names and addresses so far as known to the claimant
18 of any other person or persons claiming any interest
19 or interests in or under such unpatented mining claim;

20 such failure shall be conclusively deemed (i) to constitute
21 a waiver and relinquishment by such mining claimant of
22 any right, title, or interest under such mining claim contrary
23 to or in conflict with the limitations or restrictions specified
24 in section 4 of this Act as to hereafter located unpatented

1 mining claims, and (ii) to constitute a consent by such
2 mining claimant that such mining claim, prior to issu-
3 ance of patent therefor, shall be subject to the limitations and
4 restrictions specified in section 4 of this Act as to hereafter
5 located unpatented mining claims, and (iii) to preclude
6 thereafter, prior to issuance of patent, any assertion by such
7 mining claimant of any right or title to or interest in or under
8 such mining claim contrary to or in conflict with the limita-
9 tions or restrictions specified in section 4 of this Act as to
10 hereafter located unpatented mining claims.

11 If such notice is published in a daily paper, it shall be
12 published in the Wednesday issue for nine consecutive weeks,
13 or, if in a weekly paper, in nine consecutive issues, or if in
14 a semiweekly or triweekly paper, in the issue of the same
15 day of each week for nine consecutive weeks.

16 Within fifteen days after the date of first publication
17 of such notice, the department or agency requesting such
18 publication (1) shall cause a copy of such notice to be
19 personally delivered to or to be mailed by registered mail
20 addressed to each person in possession or engaged in the
21 working of the land whose name and address is shown by
22 an affidavit filed as aforesaid, and to each person who may
23 have filed, as to any lands described in said notice, a request
24 for notices, as provided in subsection (d) of this section 5,

1 and shall cause a copy of such notice to be mailed by reg-
2 istered mail to each person whose name and address is set
3 forth in the title or abstract company's or title abstractor's
4 or attorney's certificate filed as aforesaid, as having an in-
5 terest in the lands described in said notice under any un-
6 patented mining claim heretofore located, such notice to be
7 directed to such person's address as set forth in such cer-
8 tificate; and (2) shall file in the office where said request
9 for publication was filed an affidavit showing that copies
10 have been so delivered or mailed.

11 (b) If any claimant under any unpatented mining
12 claim heretofore located which embraces any of the lands
13 described in any notice published in accordance with the pro-
14 visions of subsection (a) of this section 5, shall fail to file
15 a verified statement, as above provided, within one hundred
16 and fifty days from the date of the first publication of such
17 notice, such failure shall be conclusively deemed, except as
18 otherwise provided in subsection (e) of this section 5, (i)
19 to constitute a waiver and relinquishment by such mining
20 claimant of any right, title, or interest under such mining
21 claim contrary to or in conflict with the limitations or restric-
22 tions specified in section 4 of this Act as to hereafter located
23 unpatented mining claims, and (ii) to constitute a consent
24 by such mining claimant that such mining claim, prior to

1 issuance of patent therefor, shall be subject to the limitations
2 and restrictions specified in section 4 of this Act as to here-
3 after located unpatented mining claims, and (iii) to pre-
4 clude thereafter, prior to issuance of patent, any assertion
5 by such mining claimant of any right or title to or interest
6 in or under such mining claim contrary to or in conflict with
7 the limitations or restrictions specified in section 4 of this
8 Act as to hereafter located unpatented mining claims.

9 (c) If any verified statement shall be filed by a mining
10 claimant as provided in subsection (a) of this section 5,
11 then the Secretary of the Interior shall fix a time and place
12 for a hearing to determine the validity and effectiveness of
13 any right or title to, or interest in or under such mining claim,
14 which the mining claimant may assert contrary to or in con-
15 flict with the limitations and restrictions specified in section
16 4 of this Act as to hereafter located unpatented mining
17 claims, which place of hearing shall be in the county where
18 the lands in question or parts thereof are located, unless the
19 mining claimant agrees otherwise. Where verified state-
20 ments are filed asserting rights to an aggregate of more than
21 twenty mining claims, any single hearing shall be limited
22 to a maximum of twenty mining claims unless the parties
23 affected shall otherwise stipulate and as many separate hear-
24 ings shall be set as shall be necessary to comply with this
25 provision. The procedures with respect to notice of such a

1 hearing and the conduct thereof, and in respect to appeals
2 shall follow the then established general procedures and rules
3 of practice of the Department of the Interior in respect to
4 contests or protests affecting public lands of the United
5 States. If, pursuant to such a hearing the final decision
6 rendered in the matter shall affirm the validity and effective-
7 ness of any mining claimant's so-asserted right or interest
8 under the mining claim, then no subsequent proceedings un-
9 der this section 5 of this Act shall have any force or effect
10 upon the so-affirmed right or interest of such mining claim-
11 ant under such mining claim. If at any time prior to a hear-
12 ing the department or agency requesting publication of notice
13 and any person filing a verified statement pursuant to such
14 notice shall so stipulate, then to the extent so stipulated, but
15 only to such extent, no hearing shall be held with respect
16 to rights asserted under that verified statement, and to the
17 extent defined by the stipulation the rights asserted under
18 that verified statement shall be deemed to be unaffected by
19 that particular published notice.

20 (d) Any person claiming any right under or by virtue
21 of any unpatented mining claim heretofore located and
22 desiring to receive a copy of any notice to mining claimants
23 which may be published as above provided in subsection
24 (a) of this section 5, and which may affect lands embraced
25 in such mining claim, may cause to be filed for record in

1 the county office of record where the notice or certificate
2 of location of such mining claim shall have been recorded,
3 a duly acknowledged request for a copy of any such notice.
4 Such request for copies shall set forth the name and address
5 of the person requesting copies and shall also set forth, as to
6 each heretofore located unpatented mining claim under which
7 such person asserts rights—

8 (1) the date of location;

9 (2) the book and page of the recordation of the
10 notice or certificate of location; and

11 (3) the section or sections of the public land sur-
12 veys which embrace such mining claim; or if such lands
13 are unsurveyed, either the section or sections which
14 would probably embrace such mining claim when the
15 public land surveys are extended to such lands or a tie
16 by courses and distances to an approved United States
17 mineral monument.

18 Other than in respect to the requirements of subsection (a)
19 of this section 5 as to personal delivery or mailing of copies
20 of notices and in respect to the provisions of subsection (e)
21 of this section 5, no such request for copies of published
22 notices and no statement or allegation in such request and
23 no recordation thereof shall affect title to any mining claim or
24 to any land or be deemed to constitute constructive notice
25 to any person that the person requesting copies has, or claims,

1 any right, title, or interest in or under any mining claim
2 referred to in such request.

3 (e) If any department or agency requesting publica-
4 tion shall fail to comply with the requirements of subsection
5 (a) of this section 5 as to the personal delivery or mailing
6 of a copy of notice to any person, the publication of such
7 notice shall be deemed wholly ineffectual as to that person
8 or as to the rights asserted by that person and the failure of
9 that person to file a verified statement, as provided in such
10 notice, shall in no manner affect, diminish, prejudice or bar
11 any rights of that person.

12 SEC. 6. The owner or owners of any unpatented mining
13 claim heretofore located may waive and relinquish all rights
14 thereunder which are contrary to or in conflict with the
15 limitations or restrictions specified in section 4 of this Act as
16 to hereafter located unpatented mining claims. The execu-
17 tion and acknowledgment of such a waiver and relinquish-
18 ment by such owner or owners and the recordation thereof
19 in the office where the notice or certificate of location of
20 such mining claim is of record shall render such mining claim
21 thereafter and prior to issuance of patent subject to the limi-
22 tations and restrictions in section 4 of this Act in all respects
23 as if said mining claim had been located after enactment of
24 this Act, but no such waiver or relinquishment shall be
25 deemed in any manner to constitute any concession as to the

1 date of priority of rights under said mining claim or as to the
2 validity thereof.

3 SEC. 7. Nothing in this Act shall be construed in any
4 manner to limit or restrict or to authorize the limitation or
5 restriction of any existing rights of any claimant under any
6 valid mining claim heretofore located, except as such rights
7 may be limited or restricted as a result of a proceeding pur-
8 suant to section 5 of this Act, or as a result of a waiver and
9 relinquishment pursuant to section 6 of this Act; and noth-
10 ing this Act shall be construed in any manner to authorize
11 inclusion in any patent hereafter issued under the mining
12 laws of the United States for any mining claim heretofore
13 or hereafter located, of any limitation or restriction not other-
14 wise authorized by law, or to limit or repeal any existing
15 authority to include any limitation or restriction in any such
16 patent.

Passed the House of Representatives June 20, 1955.

Attest:

RALPH R. ROBERTS,

Clerk.

AN ACT

To amend the Act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

JUNE 21 (legislative day, JUNE 20), 1955

Received

Dague
Davidson
Davis, Ga.
Davis, Wis.
Dawson, Ill.
Dawson, Utah
Deane
Delaney
Denton
Derounian
Devereux
Dies
Dixon
Dollinger
Dolliver
Dondero
Donohue
Donovan
Dorn, N. Y.
Dorn, S. C.
Dowdy
Doyle
Edmondson
Elliott
Ellsworth
Engle
Fallon
Fascell
Feighan
Fenton
Fernandez
Fine
Fino
Fisher
Fjare
Flood
Flynt
Fogarty
Forand
Ford
Forrester
Fountain
Frazier
Frelinghuysen
Friedel
Fulton
Garmatz
Gary
Gavin
Gentry
George
Gordon
Granahan
Grant
Gray
Green, Oreg.
Green, Pa.
Gregory
Griffiths
Gross
Hagen
Hale
Hailey
Halleck
Harden
Hardy
Harris
Harrison, Nebr.
Harrison, Va.
Harvey
Hays, Ark.
Hays, Ohio
Hayworth
Henderson
Hill
Hillings
Hoeven
Hoffman, Ill.
Hoffman, Mich.
Hofffield
Holmes
Hoit
Holtzman
Hope
Horan
Huddleston
Hull
Hyde
Ikard
Jackson
Jarman
Jenkins
Jennings
Jensen
Johansen

Johnson, Calif.
Johnson, Wis.
Jonas
Jones, Ala.
Jones, Mo.
Jones, N. C.
Judd
Karsten
Kean
Kearney
Keating
Kee
Kelley, Pa.
Kelly, N. Y.
Keogh
Kilburn
Kilday
Kilgore
Kling, Calif.
Kling, Pa.
Kirwan
Klein
Kluczynski
Knox
Krueger
Laird
Landrum
Lane
Lanham
Lankford
Latham
LeCompte
Lesinski
Lipscomb
Long
Lovre
McCarthy
McConnell
McCormack
McCulloch
McDonough
McDowell
McIntire
McMillan
Macdonald
Machrowicz
Mack, Ill.
Mack, Wash.
Madden
Magnuson
Mahon
Marshall
Martin
Mathews
Marrow
Metcalf
Miller, Md.
Miller, Nebr.
Miller, N. Y.
Mills
Minshall
Molohan
Morano
Morgan
Moss
Moulder
Muter
Murray, Ill.
Murray, Tenn.
Natcher
Nelson
Nicholson
Norblad
Norrell
O'Brien, Ill.
O'Brien, N. Y.
O'Hara, Ill.
O'Hara, Minn.
O'Konski
O'Neill
Ostertag
Passman
Patman
Pelly
Perkins
Pfost
Philbin
Phillips
Pillion
Poage
Poff
Powell
Preston
Price
Priest

Quigley
Rabaut
Radwan
Rains
Ray
Rees, Kans.
Reuss
Rhodes, Ariz.
Rhodes, Pa.
Richards
Riehlman
Riley
Rivers
Roberts
Robeson, Va.
Robson, Ky.
Rodino
Rogers, Colo.
Rogers, Mass.
Rogers, Tex.
Rooney
Rutherford
St. George
Saylor
Schenck
Scherer
Schwengel
Scott
Scrivner
Seely-Brown
Selden
Sheehan
Shelley
Sheppard
Short
Shuford
Sleminski
Sikes
Siler
Simpson, Ill.
Simpson, Pa.
Sisk
Smith, Kans.
Smith, Miss.
Smith, Wis.
Spence
Springer
Staggers
Steed
Sullivan
Talle
Taylor
Teague, Calif.
Teague, Tex.
Thomas
Thompson, La.
Thompson, Mich.
Thompson, N. J.
Thompson, Tex.
Thomson, Wyo.
Thornberry
Trimble
Tuck
Tumulty
Udall
Utt
Vanik
Van Pelt
Van Zandt
Vinson
Vorys
Wainwright
Walter
Watts
Weaver
Westland
Wickersham
Widnall
Wigglesworth
Williams, Miss.
Williams, N. J.
Williams, N. Y.
Willis
Wilson, Calif.
Wilson, Ind.
Winstead
Withrow
Wolverton
Wright
Yates
Young
Zablocki
Zelenko

NAYS—3

Mason
NOT VOTING—61

Barden
Bass, N. H.
Bell
Bentley
Bolton
Oliver P.

Taber
Brownson
Buckley
Canfield
Chatham
Cooley
Curtis, Mo.

Vursell
Davis, Tenn.
Dempsey
Diggs
Dingell
Dodd
Durham

Eberharter
Evins
Gamble
Gathings
Gubser
Gwinn
Hand
Hébert
Herlong
Heseltan
Hess
Hiestand
Hinshaw
Hosmer
James

Kearns
Knutson
McGregor
McVey
Maillard
Meador
Miller, Calif.
Morrison
Mumma
Osmer
Patterson
Pilcher
Polk
Prouty
Reece, Tenn.

Reed, Ill.
Reed, N. Y.
Rogers, Fla.
Roosevelt
Sadlak
Scudder
Smith, Va.
Tollefson
Velde
Wharton
Whitten
Wier
Wolcott
Younger

So, two-thirds having voted in favor thereof, the motion to suspend to rules and pass the bill was agreed to.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Canfield.
Mr. Roosevelt with Mr. Osmer.
Mr. Dingell with Mr. Patterson.
Mr. Evins with Mr. Bass of New Hampshire.
Mr. Eberharter with Mr. Wolcott.
Mr. Miller of California with Mr. Wharton.
Mr. Chatham with Mr. Tollefson.
Mr. Cooley with Mr. Sadlak.
Mr. Dempsey with Mr. Scudder.
Mr. Morrison with Mr. McGregor.
Mr. Polk with Mr. McVey.
Mr. Rogers of Florida with Mr. Hess.
Mr. Buckley with Mr. Hosmers.
Mr. Diggs with Mr. Kearns.
Mr. Dodd with Mr. Younger.
Mr. Herlong with Mr. Hand.
Mrs. Knutson with Mr. Heseltan.
Mr. Whitten with Mr. Bentley.
Mr. Smith of Virginia with Mr. James.
Mr. Davis of Tennessee with Mr. Reece of Tennessee.
Mr. Durham with Mr. Hiestand.
Mr. Gathings with Mr. Gwinn.
Mr. Barden with Mr. Brownson.
Mr. Bell with Mr. Maillard.
Mr. Pilcher with Mr. Velde.

The result of the vote was announced as above recorded.

Mr. MURRAY of Tennessee. Mr. Speaker, I move that the House insist on its amendments to the bill (S. 67) to adjust the rates of basic compensation of certain officers and employees of the Federal Government, and for other purposes, ask for a conference with the Senate, and that the Chair appoint conferees.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee? [After a pause.] The Chair hears none and appoints the following conferees: Messrs MURRAY of Tennessee, DAVIS of Georgia, and REES of Kansas.

AMEND ACT OF JULY 31, 1947,
AND THE MINING LAWS

Mr. ENGLE. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 5891) to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 1 of the act of July 31, 1947 (61 Stat. 681) is amended to read as follows:

"Sec. 1. The Secretary, under such rules and regulations as he may prescribe, may dispose of mineral materials (including but not limited to, sand, stone, gravel, pumice, pumicite, cinders, and clay) and vegetative materials (including but not limited to yucca, manzanita, mesquite, cactus, and timber or other forest products) on public lands

of the United States, including for the purposes of this act land described in the acts of August 28, 1937 (50 Stat. 874) and of June 24, 1954 (68 Stat. 270), if the disposal of such mineral or vegetative materials (1) is not otherwise expressly authorized by law, including the United States mining laws, and (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. Such materials may be disposed of only in accordance with the provisions of this act and upon the payment of adequate compensation therefor, to be determined by the Secretary: *Provided, however, That,* to the extent not otherwise authorized by law, the Secretary is authorized in his discretion to permit any Federal, State, or Territorial agency, unit or subdivision, including municipalities, or any person, or any association or corporation not organized for profit, to take and remove, without charge, materials, and resources subject to this act, for use other than for commercial or industrial purposes or resale. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department headed by the Secretary of a State, Territory, county, municipality, water district, or other local governmental subdivision or agency, the Secretary may make disposals under this act only with the consent of such other Federal department or agency or of such State, Territory, or local governmental unit. Nothing in this act shall be construed to apply to lands in any national park, or national monument or to any Indian lands, or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians. As used in this act, the word "Secretary" means the Secretary of the Interior except that it means the Secretary of Agriculture where the lands involved are administered by him for national-forest purposes or for the purposes of title III of the Bankhead-Jones Farm Tenant Act or where withdrawn for the purpose of any other function of the Department of Agriculture: *Provided, That,* notwithstanding any other provisions of law, such leases or permits may be issued for lands administered for national park, monument, and wildlife purposes only when the President, by Executive order, finds and declares that such action is necessary in the interests of national defense."

SEC. 2. That section 3 of the act of July 31, 1947 (61 Stat. 681), as amended by the act of August 31, 1950 (64 Stat. 571), is amended to read as follows:

"All moneys received from the disposal of materials under this act shall be disposed of in the same manner as moneys received from the sale of public lands, except that moneys received from the disposal of materials by the Secretary of Agriculture shall be disposed of in the same manner as other moneys received by the Department of Agriculture from the administration of the lands from which the disposal of materials is made, and except that revenues from the lands described in the act of August 28, 1937 (50 Stat. 874) and the act of June 24, 1954 (68 Stat. 270) shall be disposed of in accordance with said acts and except that moneys received from the disposal of materials from school section lands in Alaska, reserved under section 1 of the act of March 4, 1915 (38 Stat. 1214), shall be set apart as separate and permanent funds in the Territorial treasury, as provided for income derived from said school section lands pursuant to said act."

SEC. 3. A deposit of common varieties of sand, stone, gravel, pumice, pumicite, or cinders shall not be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so as to give effective validity to any mining claim hereafter located under such mining laws: *Provided, however, That* nothing herein shall

affect the validity of any mining location based upon discovery of some other mineral occurring in or in association with such a deposit. "Common varieties" as used in this act does not include deposits of such materials which are valuable because the deposit has some property giving it distinct and special value and does not include so-called "block pumice" which occurs in nature in pieces having one dimension of 2 inches or more.

SEC. 4. (a) Any mining claim hereafter located under the mining laws of the United States shall not be used, prior to issuance of patent therefor, for any purposes other than prospecting, mining, or processing operations and uses reasonably incident thereto.

(b) Rights under any mining claim hereafter located under the mining laws of the United States shall be subject, prior to issuance of patent therefor, to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof (except mineral deposits subject to location under the mining laws of the United States). Any such mining claim shall also be subject, prior to issuance of patent therefor, to the right of the United States, its permittees and licensees, to use so much of the surface thereof as may be necessary for such purposes or for access to adjacent land: *Provided, however,* That any use of the surface of any such mining claim by the United States, its permittees or licensees, shall be such as not to endanger or materially interfere with prospecting, mining, or processing operations or uses reasonably incident thereto.

(c) Except to the extent required for the mining claimant's prospecting, mining, or processing operations and uses reasonably incident thereto, or for the construction of buildings or structures in connection therewith, or to provide clearance for such operations or uses, or to the extent authorized by the United States, no claimant of any mining claim hereafter located under the mining laws of the United States shall, prior to issuance of patent therefor, sever, remove or use any vegetative or other surface resources thereof which are subject to management or disposition by the United States under the preceding subsection (b). Any severance or removal of timber which is permitted under the exceptions of the preceding sentence, other than severance or removal to provide clearance, shall be in accordance with sound principles of forest management.

SEC. 5. (a) The head of a Federal department or agency which has the responsibility for administering surface resources of any lands belonging to the United States may file as to such lands in the office of the Secretary of the Interior, or in such office as the Secretary of the Interior may designate, a request for publication of notice to mining claimants, for determination of surface rights, which request shall contain a description of the lands covered thereby, showing the section or sections of the public land surveys which embrace the lands covered by such request, or if such lands are unsurveyed, either the section or sections which would probably embrace such lands when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument.

The filing of such request for publication shall be accompanied by an affidavit or affidavits of a person or persons over 21 years of age setting forth that the affiant or affiants have examined the lands involved in a reasonable effort to ascertain whether any person or persons were in actual possession of or engaged in the working of said

lands or any part thereof on the date of such examination, setting forth such fact, or, if any person or persons were so found to be in actual possession or engaged in such working on the date of such examination, setting forth the name and address of each such person, unless affiant shall have been unable through reasonable inquiry to obtain information as to the name and address of any such person, in which event the affidavit shall set forth fully the nature and results of such inquiry.

The filing of such request for publication shall also be accompanied by the certificate of a title or abstract company, or of a title abstractor, or of an attorney, based upon such company's, abstractor's, or attorney's examination of those instruments which are shown by the tract indexes in the county office of record as affecting the lands described in said request, setting forth the name of any person disclosed by said instruments to have an interest in said lands under any unpatented mining claim heretofore located, together with the address of such person if such address is disclosed by such instruments of record. "Tract indexes" as used herein shall mean those indexes, if any, as to surveyed lands identifying instruments as affecting a particular legal subdivision of the public land surveys, and as to unsurveyed lands identifying instruments as affecting a particular probable legal subdivision according to a projected extension of the public land surveys.

Thereupon, the Secretary of the Interior, at the expense of the requesting department or agency, shall cause notice to mining claimants to be published in a newspaper having general circulation in the county in which the lands involved are situate.

Such notice shall describe the lands covered by such request, as provided heretofore, and shall notify whomever it may concern that if any person claiming or asserting under, or by virtue of, any unpatented mining claim heretofore located, rights as to such lands or any part thereof, shall fail to file in the office where such request for publication was filed (which office shall be specified in such notice) and within 150 days from the date of the first publication of such notice (which date shall be specified in such notice), a verified statement which shall set forth, as to such unpatented mining claim—

- (1) the date of location;
- (2) the book and page of recordation of the notice or certificate of location;
- (3) the section or sections of the public land surveys which embrace such mining claim; or if such lands are unsurveyed, either the section or sections which would probably embrace such mining claim when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument;
- (4) whether such claimant is a locator or purchaser under such location; and
- (5) the name and address of such claimant and names and addresses so far as known to the claimant of any other person or persons claiming any interest or interests in or under such unpatented mining claim; such failure shall be conclusively deemed

(i) to constitute a waiver and relinquishment by such mining claimant of any right, title, or interest under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this act as to hereafter located unpatented mining claims, and (ii) to constitute a consent by such mining claimant that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 4 of this act as to hereafter located unpatented mining claims, and (iii) to preclude thereafter, prior to issuance of patent, any assertion by such mining claimant of any right or title to or interest in or under such mining claim contrary to or in conflict with the limitations

or restrictions specified in section 4 of this act as to hereafter located unpatented mining claims.

If such notice is published in a daily paper, it shall be published in the Wednesday issue for 9 consecutive weeks, or, if in a weekly paper, in 9 consecutive issues, or if in a semiweekly or triweekly paper, in the issue of the same day of each week for 9 consecutive weeks.

Within 15 days after the date of first publication of such notice, the department or agency requesting such publication (1) shall cause a copy of such notice to be personally delivered to or to be mailed by registered mail addressed to each person in possession or engaged in the working of the land whose name and address is shown by an affidavit filed as aforesaid, and to each person who may have filed, as to any lands described in said notice, a request for notices, as provided in subsection (d) of this section 5, and shall cause a copy of such notice to be mailed by registered mail to each person whose name and address is set forth in the title or abstract company's or title abstractor's or attorney's certificate filed as aforesaid, as having an interest in the lands described in said notice under any unpatented mining claim heretofore located, such notice to be directed to such person's address as set forth in such certificate; and (2) shall file in the office where said request for publication was filed an affidavit showing that copies have been so delivered or mailed.

(b) If any claimant under any unpatented mining claim heretofore located which embraces any of the lands described in any notice published in accordance with the provisions of subsection (a) of this section 5, shall fail to file a verified statement, as above provided, within 150 days from the date of the first publication of such notice, such failure shall be conclusively deemed, except as otherwise provided in subsection (e) of this section 5, (i) to constitute a waiver and relinquishment by such mining claimant of any right, title, or interest under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this act as to hereafter located unpatented mining claims, and (ii) to constitute a consent by such mining claimant that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 4 of this act as to hereafter located unpatented mining claims, and (iii) to preclude thereafter, prior to issuance of patent, any assertion by such mining claimant of any right or title to or interest in or under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this act as to hereafter located unpatented mining claims.

(c) If any verified statement shall be filed by a mining claimant as provided in subsection (a) of this section 5, then the Secretary of the Interior shall fix a time and place for a hearing to determine the validity and effectiveness of any right or title to, or interest in or under such mining claim, which the mining claimant may assert contrary to or in conflict with the limitations and restrictions specified in section 4 of this act as to hereafter located unpatented mining claims, which place of hearing shall be in the county where the lands in question or parts thereof are located, unless the mining claimant agrees otherwise. Where verified statements are filed asserting rights to an aggregate of more than 20 mining claims, any single hearing shall be limited to a maximum of 20 mining claims unless the parties affected shall otherwise stipulate and as many separate hearings shall be set as shall be necessary to comply with this provision. The procedures with respect to notice of such a hearing and the conduct thereof, and in respect to appeals shall fol-

low the then established procedures and rules of practice of the Department of the Interior in respect to contests or protests affecting public lands of the United States. If, pursuant to such a hearing the final decision rendered in the matter shall affirm the validity and effectiveness of any mining claimant's so-asserted right or interest under the mining claim, then no subsequent proceedings under this section 5 of this act shall have any force or effect upon the so-affirmed right or interest of such mining claimant under such mining claim. If at any time prior to a hearing the department or agency requesting publication of notice and any person filing a verified statement pursuant to such notice shall so stipulate, then to the extent so stipulated, but only to such extent, no hearing shall be held with respect to rights asserted under that verified statement, and to the extent defined by the stipulation the rights asserted under that verified statement shall be deemed to be unaffected by that particular published notice.

(d) Any person claiming any right under or by virtue of any unpatented mining claim heretofore located and desiring to receive a copy of any notice to mining claimants which may be published as above provided in subsection (a) of this section 5, and which may affect lands embraced in such mining claim, may cause to be filed for record in the county office of record where the notice or certificate of location of such mining claim shall have been recorded, a duly acknowledged request for a copy of any such notice. Such request for copies shall set forth the name and address of the person requesting copies and shall also set forth, as to each heretofore located unpatented mining claim under which such person asserts rights—

- (1) the date of location;
- (2) the book and page of the recordation of the notice or certificate of location; and
- (3) the section or sections of the public land surveys which embrace such mining claim; or if such lands are unsurveyed, either the section or sections which would probably embrace such mining claim when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument.

Other than in respect to the requirements of subsection (a) of this section 5 as to personal delivery or mailing of copies of notices and in respect to the provisions of subsection (e) of this section 5, no such request for copies of published notices and no statement or allegation in such request and no recordation thereof shall affect title to any mining claim or to any land or be deemed to constitute constructive notice to any person that the person requesting copies has, or claims, any right, title, or interest in or under any mining claim referred to in such request.

(e) If any department or agency requesting publication shall fail to comply with the requirements of subsection (a) of this section 5 as to the personal delivery or mailing of a copy of notice to any person, the publication of such notice shall be deemed wholly ineffectual as to that person or as to the rights asserted by that person and the failure of that person to file a verified statement, as provided in such notice, shall in no manner affect, diminish, prejudice or bar any rights of that person.

SEC. 6. The owner or owners of any unpatented mining claim heretofore located may waive and relinquish all rights thereunder which are contrary to or in conflict with the limitations or restrictions specified in section 4 of this act as to hereafter located unpatented mining claims. The execution and acknowledgment of such a waiver and relinquishment by such owner or owners and

the recordation thereof in the office where the notice or certificate of location of such mining claim is of record shall render such mining claim thereafter and prior to issuance of patent subject to the limitations and restrictions in section 4 of this act in all respect as if said mining claim had been located after enactment of this act, but no such waiver or relinquishment shall be deemed in any manner to constitute any concession as to the date of priority of rights under said mining claim or as to the validity thereof.

SEC. 7. Nothing in this act shall be construed in any manner to limit or restrict or to authorize the limitation or restriction of any existing rights of any claimant under any valid mining claim heretofore located, except as such rights may be limited or restricted as a result of a proceeding pursuant to section 5 of this act, or as a result of a waiver and relinquishment pursuant to section 6 of this act; and nothing in this act shall be construed in any manner to authorize inclusion in any patent hereafter issued under the mining laws of the United States for any mining claim heretofore or hereafter located, of any limitation or restriction not otherwise authorized by law, or to limit or repeal any existing authority to include any limitation or restriction in any such patent.

The SPEAKER. Is a second demanded?

Mr. MILLER of Nebraska. Mr. Speaker, I demand a second.

Mr. ENGLE. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The gentleman from California [Mr. ENGLE] will be recognized for 20 minutes and the gentleman from Nebraska [Mr. MILLER] for 20 minutes.

Mr. ENGLE. Mr. Speaker, I yield myself 10 minutes.

The SPEAKER. The gentleman from California is recognized.

Mr. ENGLE. Mr. Speaker, the purpose of this bill is to amend the mining laws and to provide for multiple use of some of the public land areas subject to mining claims.

This legislation was introduced by a number of Members of this House: the gentleman from Texas [Mr. ROGERS] being the author of the bill presently before us. Bills of similar character were introduced by the gentleman from Utah [Mr. DAWSON], the gentleman from Nevada [Mr. YOUNG], the gentleman from Oregon [Mr. ELLSWORTH], the gentleman from North Carolina [Mr. COOLEY], the gentleman from Kansas [Mr. HOPE], the gentleman from Arizona [Mr. UDALL], the gentleman from Idaho [Mr. BUDGE], the gentleman from Montana [Mr. FJARE], and by myself.

Similar legislation has been introduced on the Senate side and, as I understand, has been favorably acted on by the Senate committee.

The legislation has a favorable report from the Department of the Interior and the Department of Agriculture, and those reports have been cleared by the Bureau of the Budget.

This legislation, Mr. Speaker, was drafted in a joint conference between representatives of the Department of

the Interior, the Department of Agriculture, and various conservation groups, including the National Lumber Associations, the American Mining Congress and representatives of the lumber industry. Page 15 of the report contains a list of the various State and local groups which have endorsed and are supporting this legislation, including the American Mining Congress, American Federation of Labor, Independent Timber Farmers of America, the American Forestry Association, Western Lumber Manufacturers, National Wildlife Federation, Sports Afield, National Lumber Manufacturers Association, National Farmers Union, Wildlife Management Institute, the Izaak Walton League of America, the National Grange, Northwest Mining Association, Northern Rocky Mountain Sportsmen's Association, Western Forest Industries Association, Western Forestry and Conservation Association, United States Chamber of Commerce, Society of American Foresters, and the American Nature Association.

These organizations have taken a great interest in this legislation because of the problem that it seeks to handle. The problem arises from the fact that the mining law that exists today on the statute books of this country was passed in 1872. There have been recurring instances of abuse of these mining laws in recent years due to the filing of mining claims for the purpose of establishing fishing camps and recreational resorts of various types on public-domain land, and there has been a growing and continuing conflict in the use of the surface of the public-land areas between the mine claimants, the livestock people, those interested in recreation, fish and wildlife, and the lumber handlers.

As a consequence of all of that, it has become increasingly apparent to us that it would be necessary to enact legislation eliminating the filing of phony mining claims which are a real abuse of the mining laws and which the mining industry gives no support whatever.

In addition to that, there are thousands stale and dormant mining claims throughout the national forests and the public domain areas of this country which should be dealt with; otherwise they simply lay there and clutter up the public-domain areas.

In the last session of the Congress the Committee on Agriculture of the House reported a bill relating to this subject matter as did the Committee on the Interior and Insular Affairs which reported the bill now before you. Because there were differences in those bills and because the two committees had some differences with reference to their approach to this problem, it was suggested to the Rules Committee before which those bills were pending that the matter be held in abeyance until the two committees had time to get together and work out satisfactory legislation.

This particular legislation has the approval of those gentlemen who supported the legislation in the Committee on Agriculture. The gentleman from Kansas [Mr. HOPE] and the gentleman

from North Carolina [Mr. COOLEY] appeared before our committee at the time of the hearings on this legislation in support of it. As I said then, the purpose of the legislation is to amend the general mining laws to permit a more efficient management and administration and to provide for multiple use of the surface of the same tracts of the public lands.

On page 2 of our report, which is available to you, in 5 separate categories we have outlined very generally what the objectives of this legislation are.

To begin with, we amend the Materials Act of 1947 to prohibit future location and removal, under the mining laws, of common varieties of sand, stone, gravel, pumice, pumicite, and cinders, by requiring disposition of these materials under the Materials Act. The reason we have done that is because sand, stone, gravel, pumice, and pumicite are really building materials, and are not the type of material contemplated to be handled under the mining laws, and that is precisely where we have had so much abuse of the mining laws, because people can go out and file mining claims on sand, stone, gravel, pumice, and pumicite taking in recreational sites and even taking in valuable stands of commercial timber in the national forests and on the public domain.

That portion of the bill will eliminate those items which are essentially building materials and put them under the Materials Act of 1947—the latter is the second major objective of this legislation and provided for in it. The third is an amendment to the general mining law to prohibit the use of any hereafter located mining claims for any purposes other than prospecting, mining, processing, and related activities. The information our committee had was that there was a good deal of filing of mining claims to get a good cabin site on a fine mountain stream for the purpose of fishing. In other instances, mining claims were filed on what were really resort locations. This amendment to the bill will prohibit the use of mining claims for any purpose except bona fide mining.

The fourth general objective is to amend the general mining law to limit the rights of a holder of an unpatented mining claim hereafter located to the use of the surface and surface resources. The bill would accomplish this by vesting in the responsible United States administrative agency authority to manage and dispose of vegetative surface resources on such locations, to manage other surface resources thereof (except minerals subject to the mining laws), and to use so much of the surface as is necessary for management purposes or for access to adjacent lands. Now, boiled down in simple terms, that simply means that they can take timber and use the surface of mining claims for the purpose of disposing of grass and other forage for animals.

No. 5—and this is a very important provision in this bill—establishes, with respect to invalid, abandoned, or dormant mining claims, located prior to enactment of the bill, an in rem procedure in the nature of a quiet-title action, whereby the United States could expedi-

tiously resolve uncertainties as to surface rights on such locations.

Mr. Speaker, that is what this legislation does. As far as I know, it has no opposition whatever. The gentleman from Pennsylvania [Mr. SAYLOR] who will address this House a little later, thought perhaps the bill could go somewhat further, but I believe in the main he does support the objectives of this legislation, and except for his reservation, it passed our committee by unanimous action. It has the approval of both major departments of the Government involving the administration of these lands and also has, as I said before, very broad coauthorship in this House as well as this very, very impressive group of organizations—conservation, lumber, mining, livestock, and forestry industry—primarily interested in the use of the public domain areas.

Mr. GAVIN. Mr. Speaker, will the gentleman yield?

Mr. ENGLE. I yield to the gentleman from Pennsylvania.

Mr. GAVIN. I am particularly interested in this legislation with respect to these invalid, abandoned, and dormant mining claims, and the gentleman is satisfied now that this legislation will permit the department to go in and have those matters straightened out. They have been a bone of contention for many years and this legislation is long overdue. But, the gentleman feels certain that this legislation will enable the department to clear up these matters with respect to abandoned claims.

Mr. ENGLE. I do, indeed. And it is a rather ticklish matter, I will say to the gentleman, because it involves what are known in law as vested rights. That involves an in rem proceeding, according to the best lawyers in the business who worked it out. I think it will do a great deal to eliminate those old, stagnant, dormant claims lying around.

Mr. GAVIN. And this proposed legislation meets the approval of the Forest Service of the Department of Agriculture; is that correct?

Mr. ENGLE. The answer to the gentleman is in the affirmative. A favorable report of the Department of Agriculture, of which, of course, the Forest Service is a part, is in the committee report, and the Forest Service representatives themselves appeared before our committee and testified in support of the bill.

Mr. YOUNG. Mr. Speaker, will the gentleman yield for a question?

Mr. ENGLE. I yield.

Mr. YOUNG. One of the complaints of sportsmen in the past has been that those who have mining locations have denied access to hunters and fishermen, so far as their mining claims are concerned. In the opinion of the gentlemen, under the proposed legislation, will a mining locator be able to deny access to a fisherman who wants to stand on his land and fish in the stream, or to a hunter who runs across his land in pursuit of a deer or who is chasing some partridges?

Mr. ENGLE. In my opinion, this proposed legislation does not broaden the rights of the people who go on mining

claims except to the extent specifically described in the bill, which relates to the power of administrative agencies to manage the surface resources on the claim. In other words, it is not a broad authority to everybody to cross a mining claim, who wants to do so. So the answer to the gentleman's question on that score is in the negative.

Mr. MILLER of Nebraska. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I think the committee in bringing to the floor of the House H. R. 5891 has finally arrived at the proper method of handling mining claims which is satisfactory to the Department of Agriculture and the Department of the Interior and to others who have been working with the problem. The bill spells out how we can use the mining claims and does away with the fraudulent use of those claims. The bill prevents the use of the claims as a guise for getting title to timber or getting possession of the land for a different purpose than that intended under the mining laws.

As the report has so well said, on page 2:

If enacted, H. R. 5891 would also amend the general mining laws to permit more efficient management and administration of the surface resources of the public lands by providing for multiple use of the same tracts of such lands.

I think it does spell out and remove some of the uncertainty that has prevailed in respect to some of these mining claims. Again on page 8 of the report we find these words:

The bill would also amend the general mining laws by defining the rights of locators to surface resources prior to patent for locations hereafter made; would establish procedures for more efficient management and administration of the surface resources on mining locations hereafter made; and would permit quieting of title to surface resources on locations made prior to the effective date of the act through procedures established in the act.

Those two quotations from the report I think sum up the effects of this legislation. The bill is in the interest of the public and it does clarify and spell out the use of mining claims that are now in existence and those that may be made in the future.

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. SAYLOR].

Mr. SAYLOR. Mr. Speaker, in 1872 Congress passed "the mining laws," which have remained substantially unaltered until this 1955. This is the first material change that has been made in all of those years. As our distinguished chairman, the good gentleman from California [Mr. ENGLE] said, my only complaint with this bill is that it does not go far enough to correct the errors in the act of 1872.

This bill recognizes in principle the severance theory, that two people may own various levels of land. For many, many years, the miners of all minerals in the eastern States have recognized that theory. In view of the fact that from 1872 until 1955 the manner of prospecting for minerals has changed

materially I sincerely believe that the Congress should take the necessary steps to recognize in full the severance theory. This bill is the first step in that direction.

One of the reasons I say this bill does not go far enough is that it still gives to a man who files a mining claim the right to cut the timber on his mining claim. Heretofore, the men would go in and file spurious mining claims. Those mining claims were filed for many reasons, principally because they found very valuable timber, others because they were looking for campsites or homesites or they were looking for commercial sites. Those things have been taken care of in the bill, but the one that has not been taken care of is that a man can still go in and file a mining claim if he finds known minerals, but he has the right to remove all of the merchantable timber from that tract, even though it has no relation whatsoever to the mining claim.

This is a glaring defect in this bill. It is one that I sincerely hope will be taken care of by special legislation. I have absolutely no complaint against a man who has a legitimate mining claim's being entitled to use the timber necessary for his mining operation, but I vehemently oppose in principle, and I think I am joined by a majority of the conservation groups in America, in allowing a man to go in and file a mining claim, even a legitimate mining claim, and be given the right to use not only the timber which is necessary for his mining operation but whatever merchantable timber is found upon that entire tract.

That is the only glaring defect that exists in this bill. Despite this defect, I urge the adoption of this bill because it is a step in the right direction. The defect I have commented upon is one which has existed since 1872. It is one that I sincerely hope, in view of the diminishing returns which we are getting from our national forests, will be looked into in detail not only by the Committee on Agriculture in handling the affairs of our national forests but also by the Subcommittee on Mines and Mining of the House Committee on Interior and Insular Affairs.

Mr. McDONOUGH. Mr. Speaker, will the gentleman yield?

Mr. SAYLOR. I yield to the gentleman from California.

Mr. McDONOUGH. In addition to the forest lands that he can use, can he use the same area for grazing purposes?

Mr. SAYLOR. If he proceeds to patent he may use the surface for any reason whatsoever.

Mr. ENGLE. Mr. Speaker, I yield such time as he may desire to the author of the bill, the gentleman from Texas [Mr. ROGERS].

Mr. ROGERS of Texas. Mr. Speaker, I shall not impose upon the House by taking a lot more time in explanation of this bill. The distinguished chairman of the committee has made a very able presentation of it. The ranking minority member of the committee and the gentleman from Pennsylvania [Mr. SAYLOR] have pointed out the reasons and

the necessity for the legislation. Frankly, it is simply a corrective measure moving another step in the direction of solving the many problems that have troubled the mining business.

Another step was taken last session when we passed Public Law 585, I believe it was, concerning the separation of those leasing minerals and the locatable minerals. This bill has to do with the surface rights. It is a piece of legislation that is explained in detail and in a very excellent manner in the report. I commend that report to you for your reading and your future reference.

The passage of this legislation is long overdue. I hope there will be no further delay in its adoption.

Mr. MILLER of Nebraska. Mr. Speaker, I yield 3 minutes to the gentleman from Utah [Mr. DAWSON].

Mr. DAWSON of Utah. Mr. Speaker, I simply want to take this time to commend the chairman of our committee for the most scholarly presentation he has made of the purposes of this bill. I would like to add that there has been much time and effort put into the planning and wording of this measure. For some years now, we have been attempting to properly define legitimate fields for the mining operators as well as for the people who are interested in the surface of our public lands. But, we have had a conflict and we are pleased to say that, in this bill, we have brought together the interests of the mining people as well as the conservationists and the forest people and others who are interested. It is a forward-looking measure, and one which is certainly going to redound to the benefit of the public generally.

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. DAWSON of Utah. I yield.

Mr. DIXON. I understand that the gentleman submitted a bill last year to prevent this fictitious filing of mining claims; is that not true?

Mr. DAWSON of Utah. The gentleman is correct. I have always felt something should be done to cut out this filing of fictitious claims. Those who file on sand, gravel, cinders, and pumice certainly are not legitimate miners. They are doing the mining industry no good. I certainly think they should be deprived of the right to file such claims.

Mr. DIXON. What happened to that bill?

Mr. DAWSON of Utah. Of course, many of us introduced bills, but a bill by our former colleague from Texas, Mr. Regan, passed this House but was left to die on the other side. The first portion of this bill does include the sections of the Regan bill which would prohibit the filing on sand, gravel, and common material. So that part will be taken care of in this bill. The measure also goes further and limits the right of mining people to the subsurface rights with the exception of such building materials as they might need in their mining operations.

Mr. DIXON. I commend the gentleman for following through on this legislation which will correct such a glaring

evil. I hope the bill will pass and also be passed by the other body.

Mr. DAWSON of Utah. May I say to my colleague, I did have meetings with the forest people and the mining people and others before this measure was introduced. They are all in agreement on it. Now is the time to act, while we have them all in agreement. This measure is worthy of your support and I urge its favorable consideration under a suspension of the rules.

Mr. MILLER of Nebraska. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. JOHNSON].

Mr. JOHNSON of California. Mr. Speaker, my purpose in taking this minute, and perhaps another minute, if it is necessary, is to ask a question of the distinguished chairman with reference to this bill. First, may I say I think it is an excellent bill. The question which I wish to ask the distinguished chairman is with reference to the following matter. It has been represented to me by lumbermen who live in my part of the country and who operate sawmills and box factories that the Forest Service has permitted a great many trees to become overaged. We all know that trees, just like any other crop, when they get ripe should be cut down or harvested the same as any other crop. These men, who have represented this to me, are men who have had experience in the lumber business and I have taken their word that the representations concerning the failure to harvest trees when they are ripe is true. I wonder if the chairman would tell me whether in his opinion the Department of Agriculture and the Forestry Department is permitting any large group of trees to become overage and overripe, and will this bill help to correct that situation?

Mr. ENGLE. It is my opinion that the Forestry Service is letting a great deal of timber become overripe and fall down as a result of overmaturity. I agree with the gentleman that when the tree gets old enough to be cut down, it should be cut down, otherwise it is wasted just the same as any other crop may go to waste. This bill relates to that problem because it would permit the Forest Service and the Bureau of Land Management to dispose of mature trees on mining claims which they cannot do under the present law.

This bill would amend that law so that they can go in and harvest those trees. With reference to those areas in the national forests where mining claims have not been filed, the only way to perk up the Forest Service and get disposition of that timber is to keep after them and to provide them with the money to survey that timber and mark that out for sale. In other words, the gentleman has asked a question that is broader than this bill. This bill relates only to mining claims. As to that particular feature it is helpful in the line that the gentleman wants to go; namely, the disposition and marketing of mature and over-ripe timber on mining claims. This bill would permit that to be done.

Mr. JOHNSON of California. I associate myself with the gentleman from

Pennsylvania [Mr. SAYLOR] regarding mining claims and the situation that permits them to use a mining claim for many other purposes than for mining. We should remove those purposes and permit mining claims only to use the land for mining purposes.

I hope this bill passes as I believe it is a constructive step in the conservation of our trees and the harvesting of them to produce the best lumber.

(Mr. JOHNSON of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of Nebraska. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES of Arizona. Mr. Speaker, this is as fine a bill as has been brought out from the Committee on Interior and Insular Affairs since I have been a Member of Congress.

I call particular attention to one feature of this bill. We have many unpatented mining claims throughout the public domain. Those claims are not being used by anybody. In many instances there never have been any minerals on those claims. The assessment work required by law is not kept up. But there is nothing under the present law that the Government can do about this situation. One time assessment work is important is when a claim is jumped, and it is necessary to prove the original claimant. The only other time assessment work must be proved is when he applies for patent. He must make proof in order to get patent. If his claim is never jumped and he does not apply for patent, then the claim stays outstanding for years as a cloud upon the title of the Government, and as a deterrent to the use which the people of the United States can make of the public domain.

This particular bill provides for an item proceeding, whereby the United States Government may, if it so desires, come in and quiet title on these long dormant rights which certainly serve no useful purpose for anyone.

It is a good bill and I hope it is passed. Mr. ENGLE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HAGEN].

(Mr. HAGEN asked and was given permission to revise and extend his remarks.)

Mr. HAGEN. Mr. Speaker, first I wish to congratulate the woodsman, trapper, aviator, and so forth, chairman of the committee, on his presentation in behalf of this bill, and the authors for their efforts in presenting this legislation.

This bill indicates the necessity for a modern-day look at our national resources. As our population increases, as more areas are taken out of a raw wilderness, the necessity increases for the wise use of our remaining open and wilderness areas. This bill contributes to that wiser use. Perhaps it does not go far enough.

In my area there are uranium hunters swarming all over the countryside. There is hardly a foot of land along any highway that is not staked out with some kind of a claim, perhaps 3 or 4 on top of each other. The problem of preserving adequate habitat for fish and other wildlife is becoming more crucial

throughout the United States. I am certain this legislation will make a major contribution toward clarifying some of these problems which have come along with this heavy modern use of what formerly were waste areas.

I hope the committee, of which the distinguished gentleman from California [Mr. ENGLE] is chairman, will watch this new law in operation, and perhaps come up with some further recommendations that will preserve the areas and the best use of those areas as we all desire them.

The SPEAKER. The time of the gentleman from California has expired.

Mr. MILLER of Nebraska. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon [Mr. ELLSWORTH].

Mr. ELLSWORTH. Mr. Speaker, I, too, wish to commend the committee for the prompt and careful consideration of this bill. I am one of the coauthors of the bill and am very pleased to see it on the floor here today. I feel certain there is no doubt about its passage, because it is not only a good piece of legislation but also it is long overdue.

May I say with reference to the question that was asked by the gentleman from Nevada [Mr. YOUNG], regarding the rights of sportsmen, hunters, and fishermen to go on the mining claims filed after the enactment of this act that the chairman of the committee, the gentleman from California [Mr. ENGLE], in reply to the question by the gentleman from Nevada, indicated that the bill does not protect the rights of recreationists on mining claims filed hereafter. I believe that if the chairman of the committee, the gentleman from California [Mr. ENGLE], will recheck subsection (b) of section 4 on page 5 of the bill, he will agree with me that this bill does give rights to recreationists on national forest land even on those lands that have been filed upon for mining claims.

Section 4 (b) reads:

(b) Rights under any mining claim hereafter located under the mining laws of the United States shall be subject, prior to issuance of patent therefor, to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof.

In framing this bill the language of subsection (b) of section 4 was very, very carefully considered and carefully written with this thought in mind. We thought of protecting the rights of recreationists, sportsmen, and others to use the national forests for hunting, fishing, and recreation; so that the term "other resources thereon" protects the right of trespass.

Then it contains the language:

Such mining claims shall also be subject prior to the issuance of patent to the right of the United States, its permittees, licensees, to use so much of the surface thereof as may be necessary for such purposes or for access to adjacent land.

Therefore, Mr. Speaker, I think this Record in the debate on this bill should be taken to indicate clearly that it is the intent of Congress that a person who files on a mining claim hereafter in the national forest does not have the right to exclude recreationists or other permittees.

Mr. ENGLE. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. BAILEY].

Mr. BAILEY. Mr. Speaker, from what I can learn of the contents of this legislation I think it is in the right direction and meritorious, and for that reason I would like to go on record as being in favor of it. However, the major purpose of asking for this time was to ask a question of the chairman of the committee.

We are having some extended litigation in the State of West Virginia growing out of the attempt of some individuals owning mineral rights under the Monongahela National Forest as well as in the State forest going in and opening up a coal-stripping operation. Our courts have decided against it, and there is a possibility that they are now going into the Federal courts.

There is a sizable section of the Monongahela National Forest barred to the National Government using the mineral rights. The Government acquired the surface rights but never owned the mineral rights, and it is creating considerable confusion.

I wanted to ask the chairman if he thought there was anything in this legislation that would clarify that situation where the mineral rights have been held by individuals before the Federal Government acquired surface rights. The mineral rights are still held either by individuals or by coal corporations.

Mr. ENGLE. This bill is not retroactive, therefore cannot affect the proposition the gentleman refers to one way or the other. The courts have held that a mining claim is a vested right or interest. There is no way you can go back and divest them of that interest without violating a provision of the Constitution. That is what made this problem so thorny and hard to handle under procedure and in dealing with stale and dormant mining claims. To answer the gentleman's question specifically, in my opinion the answer is "No," it does not affect it one way or the other.

Mr. BAILEY. I thank the gentleman from California.

Mr. ENGLE. Mr. Speaker, I yield myself 1 minute for the purpose of clarifying a situation referred to by the gentleman from Oregon [Mr. ELLSWORTH].

It is my opinion that this bill does not give a broadside right to recreationists, sportsmen, and whoever else may be in the national forests or on the public domain to walk upon and to occupy in connection with their activities mining claims.

Mr. ELLSWORTH. Mr. Speaker, will the gentleman yield?

Mr. ENGLE. I yield to the gentleman from Oregon.

Mr. ELLSWORTH. I believe the gentleman might be correct with reference to the public domain other than the national forests or national parks, wilderness areas, and that type of land. So far as the national forests are concerned, as I read the language it confers on the National Forests Administrator exactly the same rights he has on the surface as he has at the present in the remainder of the land.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

House Resolution 271 was laid upon the table.

APPOINTMENT OF CONGRESSIONAL DELEGATION TO ATTEND THE NORTH ATLANTIC TREATY ORGANIZATION PARLIAMENTARY CONFERENCE

Mr. RICHARDS. Mr. Speaker, I move to suspend the rules and pass House Concurrent Resolution 109.

The Clerk read the House concurrent resolution, as follows:

Whereas a parliamentary conference of the North Atlantic Treaty Organization will meet in Paris in July 1955; and

Whereas among other items it is planned to discuss at the conference the question of future cooperation by the NATO members, including their parliamentary bodies; and

Whereas the Congress has taken a leading part in the formation of the Organization and in its support through the enactment of measures to strengthen its capacity to defend the North Atlantic area against Communist aggression; and

Whereas the presence of Members of the Congress at the conference will be a tangible demonstration of the continuing desire of the American people to support the Organization and to promote closer relations with and between the members of the Organization; and

Whereas such a conference can contribute to the strength of the North Atlantic area in the maintenance of peace and security and the mutual interests of its members: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That not to exceed 14 Members of Congress shall be appointed to meet jointly with the representative parliamentary groups from other NATO members meeting in conference in Paris in July 1955, for discussion of common problems in the interests of the maintenance of peace and security in the North Atlantic area. Of the Members of the Congress to be appointed for the purposes of this resolution, half shall be appointed by the Speaker of the House from Members of the House, and half shall be appointed by the President of the Senate from Members of the Senate. Not more than four of the appointees from the respective Houses shall be of the same political party.

The expenses incurred by Members of the House, the Senate, and by staff members appointed for the purpose of carrying out this concurrent resolution shall not exceed \$15,000 for each House, respectively, and shall be paid from the contingent fund of the House of which they are Members. Payment shall be made upon the submission of vouchers approved by the chairman of the respective House or Senate delegation.

The SPEAKER. Is a second demanded?

Mr. GROSS. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. RICHARDS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this resolution was unanimously reported by the Committee on

Foreign Affairs of the House and placed on the Consent Calendar but passed over. We are now asking the House for endorsement of the action taken by the Committee on Foreign Affairs.

This resolution provides for the appointment of a congressional delegation to attend the North Atlantic Treaty Organization Parliamentary Conference, the delegation to be composed of 7 Members of the Senate and 7 Members of the House, not more than 4 to come from any one political party.

As of the present time the parliaments of 10 or 12 countries have already indicated that they will send delegations to this conference. As a matter of fact, the Canadian Government was particularly interested to the extent that the President of the Canadian senate came down here to confer with the Speaker of the House and the Vice President, also the chairman of the Committee on Foreign Relations of the Senate and on Foreign Affairs of the House.

In view of the fact that the North Atlantic Treaty countries are, in concert with us, spending hundreds of millions of dollars in support of that alliance, it is felt that it would be helpful to send a delegation from the United States Congress in order that we might observe at first hand what is going on over there. I do not think there will be much opposition to this resolution, Mr. Speaker. I do not see how there could be. But, the grounds that I have stated, I think, are correct.

Mr. WILLIAMS of Mississippi. Mr. Speaker, will the gentleman yield?

Mr. RICHARDS. I yield to the gentleman from Mississippi.

Mr. WILLIAMS of Mississippi. How much authority will be given these delegates to this conference? Will they be given the authority, for instance, to obligate us to further expenditures of money?

Mr. RICHARDS. No; they certainly will not.

Mr. WILLIAMS of Mississippi. Morally or legally?

Mr. RICHARDS. Morally or legally they cannot commit the United States.

Mr. JOHNSON of California. Mr. Speaker, will the gentleman yield?

Mr. RICHARDS. I yield to the gentleman from California.

Mr. JOHNSON of California. As I understand, this is purely an exploratory conference to exchange ideas on what our various countries could do to move toward a peaceful solution of existing conditions.

Mr. RICHARDS. In harmony and unity. That is correct.

Mr. JOHNSON of California. We want to combine our efforts to see if we cannot move in the direction of peace by a little unity.

Mr. RICHARDS. Yes.

Mr. JOHNSON of California. But there is no commitment to be made by anybody in our group, as I understand it.

Mr. RICHARDS. No commitment to be made by anyone for the United States. And, they are going to meet there, anyway, and it is thought that it would be wise for the United States to impress its viewpoint on that gathering.

Mr. JOHNSON of California. I am heartily in accord with the gentleman's plea, and I hope it will pass the House.

Mr. RICHARDS. I thank the gentleman.

Mr. VORYS. Mr. Speaker, will the gentleman yield?

Mr. RICHARDS. I yield to the gentleman from Ohio.

Mr. VORYS. As a matter of fact, the authority of this committee will be rather strictly limited. On page 2 of the bill they are authorized "to meet jointly with the representative parliamentary groups from other NATO members * * * for discussion of common problems in the interests of the maintenance of peace and security in the North Atlantic area." According to the text of the resolution, they can only discuss certain common problems in the interests of peace and security.

Mr. RICHARDS. That is right. And it is so written in the resolution.

Mr. SPRINGER. Mr. Speaker, will the gentleman yield?

Mr. RICHARDS. I yield to the gentleman from Illinois.

Mr. SPRINGER. May I ask the gentleman will there be other parliamentary delegations at this meeting?

Mr. RICHARDS. Already 10 countries have signified their intention and passed resolutions of their parliamentary bodies to go there and be present. The Canadian Government has not only passed a resolution but has indicated its strong desire to go along with the United States.

Mr. SPRINGER. This is the first time, is it not, Mr. Speaker, that parliamentary bodies themselves have been present at these meetings?

Mr. RICHARDS. I would not say that. I think a year or two ago several countries met not as a special group, but as observers.

Mr. SPRINGER. The main purpose of this resolution is to bring the discussion which has previously been carried on more or less at what we call the administrative government level down to the parliamentary level, is it not, to exchange views as between them governing these overall problems?

Mr. RICHARDS. That is correct. Up until this time the emphasis has been placed on unity in the military. Now they want to emphasize and try to accomplish better civil unity, unity between themselves, particularly in regard to the parliamentary bodies which passed the laws by which NATO has the authority to operate.

Mr. SPRINGER. And this will be our first opportunity in this Congress to get a report directly back, is it not, from Members of our own body as to what the outlook is on NATO for the future?

Mr. RICHARDS. That is precisely correct.

Mr. SPRINGER. I want to commend the gentleman. I think it is a good resolution.

Mr. RICHARDS. I thank the gentleman very much.

Mr. HOFFMAN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. RICHARDS. I yield to the gentleman from Michigan.

Mr. HOFFMAN of Michigan. Did I understand the gentleman to say that the people that this Government sends over there can neither orally nor legally bind our folks to anything?

Mr. RICHARDS. That is right.

Mr. HOFFMAN of Michigan. Then all they are going to do is talk about what is good for the world and for us?

Mr. RICHARDS. Talk about what is good for the North Atlantic Treaty Alliance.

Mr. HOFFMAN of Michigan. Then the gentleman thinks it is all right to leave out the other people in the world?

Mr. RICHARDS. No. I think we should not leave out the other people of the world, but there are plenty of other and more appropriate places to take up their problems. We are talking about the NATO alliance countries, countries to which we are committed and obligated to go to war in the event one of them is attacked.

Mr. HOFFMAN of Michigan. So eventually we will have in NATO one group of nations, and then, if the Communists come along, as we have been given to understand they will, and form another group, there will be that other group. Then we will have the whole world in two armed camps, so that each will know where to find its enemies.

Mr. RICHARDS. The whole world is already in two armed camps.

Mr. HOFFMAN of Michigan. Then, what is the use of NATO and the other group that is proposed, if they are all already lined up?

Mr. RICHARDS. We just want those in our camp brought closer together.

Mr. HOFFMAN of Michigan. Each group will be brought closer together?

Mr. RICHARDS. No; our group.

Mr. HOFFMAN of Michigan. Does not the gentleman think the other group with be brought closer together, too?

Mr. RICHARDS. Maybe.

Mr. HOFFMAN of Michigan. And then we will know just whom to fight, will we not?

Mr. RICHARDS. They are pretty close already.

Mr. RIVERS. Mr. Speaker, will the gentleman yield?

Mr. RICHARDS. I yield to my friend from South Carolina.

Mr. RIVERS. The distinguished group which is to be selected from the other body, can the gentleman tell me whether the members of the Committee on Armed Services will be represented on that group?

Mr. RICHARDS. I do not know about that. The membership of this group which it is expected will be appointed, will not be confined to any particular committee. So far as I know, no one from the Committee on Foreign Affairs has signified a desire to go. I hope the members will be appointed from the House at large.

Mr. RIVERS. I think that is a fine way to proceed.

Mr. RICHARDS. Mr. Speaker, I reserve the balance of my time.

SUBCOMMITTEE OF THE COMMITTEE ON
EDUCATION AND LABOR

Mr. BAILEY. Mr. Speaker, I ask unanimous consent that the subcommit-

tee of the Committee on Education and Labor dealing with school-construction legislation be permitted to sit during debate today.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. GROSS. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. LeCOMPTE].

Mr. LeCOMPTE. Mr. Speaker, I want to express my full approval and endorsement of the resolution of the gentleman from South Carolina, the chairman of the Committee on Foreign Affairs [Mr. RICHARDS]. Already 9 or 10 countries, members of the North Atlantic Treaty Organization, the group that has been formed for the purpose of defending each other in the event of aggression against them, have indicated and have signified their intention of sending a delegation to this conference. In fact, in some countries the delegations have been named. If there is going to be another great world war, these countries who will meet in Paris in July of this year will be our allies. Of course, as the gentleman from South Carolina [Mr. RICHARDS] very well said, this conference will not bind the United States to any action or policy. But it is entirely possible that at this conference there will be discussions on the future of the NATO and there will be an effort to bring the members of the North Atlantic Treaty Organization closer together.

At the present time NATO is costing the taxpayers of America a great many millions of dollars annually. In my opinion, it will be an economy measure for us to have a delegation there to find out what is going on in the North Atlantic Treaty Organization and report back to the Congress.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. LeCOMPTE. I yield to my colleague. I regret to find that I am not in full agreement with my friend from Iowa, but I am glad to yield to him.

Mr. GROSS. Is the gentleman now saying that we cannot find out what is going on in NATO through the officials already representing this Government in NATO?

Mr. LeCOMPTE. There will be representatives of the countries there who will confer and discuss things.

Mr. GROSS. The gentleman has not answered my question. Can we not find out from the officials already representing us what is going on in NATO?

Mr. LeCOMPTE. Yes, we can. But we cannot find out what is the thinking of the men in the parliaments of the member countries. That is what we hope to accomplish at this conference. We are going to find out what are the thoughts of the people in the parliamentary governments who will be represented there.

Mr. GROSS. What does the gentleman propose to find out from them?

Mr. LeCOMPTE. There will be a free discussion.

Mr. GROSS. What does the gentleman propose to find out?

Mr. LeCOMPTE. If the gentleman is opposed to the North Atlantic Treaty Organization, then, of course, he is opposed to this conference. But if the gentleman agrees with the philosophy of those who think we had better have some allies in this next war, if there is going to be one, then he certainly cannot object to this country being represented at that conference.

Mr. GROSS. The gentleman's answer is not responsive to my question. What is it the gentleman proposes to find out?

Mr. LeCOMPTE. We propose to have an exchange of ideas at the Paris conference. I think that is what the gentleman from South Carolina [Mr. RICHARDS] who is the author of the resolution, has in mind.

Mr. GROSS. The gentleman is supporting the resolution. I am asking him the question.

Mr. LeCOMPTE. I think he expects to have an exchange of ideas from representatives of these parliamentary governments embraced in the North Atlantic Treaty Organization.

Mr. ELLSWORTH. Mr. Speaker, will the gentleman yield?

Mr. LeCOMPTE. I yield to the gentleman from Oregon.

Mr. ELLSWORTH. I think the colloquy between the two gentlemen from Iowa may be a little bit wide of the mark. This resolution, as I understand, is for the purpose of permitting discussions of the subject of NATO at the parliamentary level.

Mr. LeCOMPTE. Exactly.

Mr. ELLSWORTH. Certainly, we can ask the Executive Branch people who are in charge of these things administratively, but this is for parliamentarians, people like us in the other countries, so that the subject can be discussed at that level.

Mr. LeCOMPTE. The gentleman from Oregon is exactly right. That is the purpose of the conference, a discussion by representatives of the parliaments and the Congress meeting together for an exchange of ideas, thereby bringing the countries of the North Atlantic Treaty Organization closer together.

Mr. ELLSWORTH. We are soon going to have discussions on the very highest level. We unquestionably now have numerous discussions on the executive level. But the people in all of the nations of NATO who are responsible for what goes on in their countries are the representatives in the parliamentary bodies of the several governments. This meeting is for the people in the parliamentary branches of the governments to get together and talk things over, too.

Mr. LeCOMPTE. It might save the taxpayers of the United States a lot of money.

(Mr. LeCOMPTE asked and was given permission to revise and extend his remarks.)

Mr. GROSS. Mr. Speaker, I yield myself such time as I may require, and ask unanimous consent to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

AMENDING THE ACT OF JULY 31, 1947 (61 STAT. 681), AND THE MINING LAWS TO PROVIDE FOR MULTIPLE USE OF THE SURFACE OF THE SAME TRACTS OF THE PUBLIC LANDS

JUNE 22, 1955.—Ordered to be printed

Mr. MALONE, from the Committee on Interior and Insular Affairs, submitted the following

MINORITY VIEWS

[To accompany S. 1713]

The purpose of the amendment to the 1872 mining law set forth in S. 1713 is, according to its sponsors, to prevent:

1. Clearly invalid mining locations, unsupported by any semblance of discovery, and
2. Mining locations having mineral disclosures which might satisfy the basic requirement of discovery, but which were in fact made for a purpose other than mining.
3. To make it easier for the Federal bureaus to bring up for review claims and claimants which in their judgment includes land more valuable for another purpose.

That is the statement of the principal witness, Mr. Raymond B. Holbrook, an attorney employed by the United States Smelting Refining & Mining Co. for 17 years, and who is the chairman of the public lands committee of the American Mining Congress. Mr. Holbrook was the nearest approach to a mining man who appeared for the bill.

LEGITIMATE OBJECTIONS COVERED BY MINING LAWS AND DECISIONS

The first purpose is amply covered by the present mining law as interpreted over the years by the Supreme Court of the United States. Both the public and the prospector are fully protected, with recourse to the courts.

The second and third are clearly an imposition on the rights of the prospector since they open the door for the first time in more than 80 years for a Government bureau employee to allege that the land is more valuable for another purpose than mining and bring the case before his own bureau where the only appeal is to a higher employee or official in that same bureau.

CONGRESS COULD DESTROY INCENTIVE

Since it is even conceivable that evidence might show that the value for other purposes might temporarily be greater than the immediate value of a small mining property, it is inconceivable that the Congress would allow a bureau official, in no way connected with mining, such as the Forest Service or the Bureau of Land Management, and having no first hand knowledge of the industry, to be the complainant, judge, and jury.

The history of mining is clear that you must have prospects before you have small mines and you must have small mines before you can have big mines—and that it often requires many years before the larger bodies of ore can be developed, even after they are known to exist.

FIRST LOCATOR SELDOM PROFITS

History also shows that the property may change hands many times through the first locators “going broke” and either relinquishing the claim to another locator or selling out for what they can get because of their inability to continue working the property, or because of lack of “assessment” work simply losing to another locator. Rarely does the first locator profit from the discovery.

There used to be a byword in the ranching business—that it was the third or fourth homesteader of a homestead that made it stick. The mining business is even tougher.

GOVERNMENT BUREAUS

The principal witness, Mr. Holbrook, further testified that—

We have had the pleasure of working with the Forest Service and the Bureau of Land Management and understand their position is that these problems could not be entirely met by effective administration of existing laws for the following reasons:

1. The available remedies are slow, expensive and not conclusive, and
2. There is great difficulty in establishing the invalidity of a location, supported by discovery, on the basis that the location was made for a purpose other than mining.

The weight of evidence of the witnesses called—all but one holding some Government position—was that the Government bureaus should be given the clear power to determine the validity of a mining location within their own department.

This power in the hands of the bureau officials would destroy the prospector and reverse the Supreme Court decisions for more than 80 years.

They would also have the authority to determine whether or not the land is more valuable for another purpose than mining.

OBJECTIVE—LEASING SYSTEM

It is clear that the Government bureaus are still moving toward a leasing system which they have continually advocated for two decades.

DESTROY LAW INTENT AND COURT DECISION

The prospector can be moved under the 1872 law if he has not complied with it, which is the intent and the extent of the original law.

The Supreme Court decisions, for more than 80 years, have clarified and established the law.

It has been established that if the prospector has complied with the law in setting up his monuments—in filing with the county recorder—and has done the required “assessment” work that a Government department cannot move him or interfere with his work by alleging that “a reasonably prudent man would not expend his money and his effort in the hopes of developing a mine” (Holbrook, p. 91, May 18, 1955).

The amended act opens the door for continual interference by Government officials.

It limits the locators’ inherent rights prior to patent—since when patent issues there is no change in the fee-simple ownership—and the timber, forage, and all other assets go to the patentee. It does not make sense to allow the Government to deplete his claim in accordance with their judgment before patent.

There may have been abuses under the law—but when investigated it will generally be found that the Government has not met its responsibilities under existing law and that the law itself or court decisions provide the remedy.

PROSPECTOR ON THE DEFENSIVE

As it now stands the Government must initiate any proceedings to prove the location invalid—which is exactly what was intended and must be maintained—under the proposed law the prospector will be on the defensive and will be continually harried and tormented by inexperienced and irresponsible bureau officials.

HEARINGS IN MINING AREAS

It is abundantly clear that hearings should be held in the mining areas of this Nation before any action is taken, since no real miners were heard and the mining associations of the several States were clearly intimidated through threats of more severe legislation unless they accepted the proposed legislation as written.

LAST STAND OF SMALL CAPITAL

The present simple location system for acquiring prospecting ground for mining is the last stand for the man of small capital.

It requires no money—just a sack of beans and some coffee and many of them have been known to dispense with the coffee until they can show enough to acquire a “grubstake” from someone who is willing to gamble with them.

They can build a rock mound or stick up a stake and lodge the location notice on it—then set up the corners within 30 days and start the location work.

The ground is then his own as long as he does the required annual assessment work and files proof of it in the county recorder’s office of his county.

It is not necessary to have a surveyor or an accurate placing of the corners of his property. If he inadvertently takes in too much territory then, when there is a conflict, which there will most certainly be

when and if he makes a strike, he can only hold the 1,500 by 600 feet of the regulation mining claim.

MINING IS A GAMBLE—NO PRUDENT MAN

Mining is a gamble—it is also a disease, which once acquired means that they will “hit” a mine or die broke. Where a very limited few develop a mine, thousands die broke, but it is the incentive of “striking it rich” that keeps them in the hills where the ore is to be found.

Probably 90 percent of the digging done by prospectors is on ground where no prudent man would dig—and this Nation can thank God that they have continued to dig on such ground, because most of the prospects developing into mines are discovered by these miners confirmed in the faith.

The testimony by Government witness, and witnesses inexperienced in the actual prospecting operation, was to the effect that many mining claims are located on ground where no prudent man would dig—prospectors are not prudent men.

ONLY ONE MINING MAN HEARD

There was only one mining man at the hearing who testified and his testimony was emphatically against the bill unless modified—and he recommended that hearings be held in the mining areas before it was reported to the Senate floor. The witness was Mr. Robert S. Palmer, Secretary-Treasurer of the Colorado Mining Association, which is one of the largest and most important of such associations in this Nation.

NO PRECEDENT

Several witnesses have testified that a precedent for this proposed legislation was set in the passage of Public Law No. 250, 83d Congress, amending the 1872 Mining Act.

There could have been no precedent set in the previous legislation for this type of bill since it only dealt with coordinating the use of the same mining claims for different minerals—petroleum, uranium, and other minerals. The amended act provided that you could mine uranium on an oil claim but the petroleum producer had the priority and you could not interfere with him, and that you could develop and produce oil on a uranium claim but that you could not interfere with the operation of the prior locator.

PRECEDENT WOULD BE SET

It positively had nothing to do with timber or forage or sagebrush. It had absolutely nothing in common with S. 1713, which does set a precedent for leasing ground for materials.

HEARINGS IN MINING AREAS

Certainly hearings should be held in the mining areas. Let the miners have a chance to help work it out.

CAN BE WORKED OUT

I believe that if this is done a satisfactory piece of legislation can be worked out that will benefit all concerned, and that will not curb the prospector, and that will not discourage independent investors and "grubstakers" interested in locating, developing and producing minerals.

SHOULD BE CONFINED TO FOREST AREAS

If the legislation is to be voted on today as set up without hearings in the mining areas of the country, then its application should certainly be confined to the forest reserve areas where most of the testimony before the committee applied.

GEORGE W. MALONE.



6. LEGISLATIVE PROGRAM. The Majority Leader scheduled consideration of the conference reports on the Commerce Department appropriations and D. C. judges, and possibly S. 2090, the mutual security bill on Wed., June 29; and H. R. 7000, the new reserve forces bill on Thurs., June 30 (p. 8056).

SENATE

7. FORESTRY. Passed H. R. 5891, to amend the mining laws to provide for multiple use of the surface of the same tracts of the public lands, with an amendment to substitute the language of S. 1713 as reported (pp. 7965-81).

The bill provides that deposits of common varieties of sand, building stone, gravel, pumice, pumicite, and cinders on public lands shall be disposed of under the Materials Act instead of the mining laws; amends the Materials Act to give the Secretary of Agriculture the same authority with respect to the common, widespread mineral materials and vegetative materials located on lands under his jurisdiction as that which the Secretary of the Interior has with respect to lands under his jurisdiction; amends the general mining law to prohibit use of any hereafter located unpatented mining claim for any purpose other than prospecting, mining, processing, and related activities; vests in the responsible U. S. agency authority to manage and dispose of vegetative surface resources on such locations, to manage other surface resources (except minerals subject to the mining laws), and to use so much of the surface as is necessary for management purposes or for access to adjacent lands, except that such use must not endanger or materially interfere with mineral development; and establishes a procedure to quiet-title old mining claims.

Rejected a Malone amendment to confine operation of the bill to those lands coming within jurisdiction of the Forest Service (p. 7981). Rejected a Malone motion to recommit the bill until hearings could be held in the 11 Western States (p. 7980).

8. PERSONNEL. The Post Office and Civil Service Committee reported with amendments S. 1792, to amend Sec. 10 of the Federal Employees Group Life Insurance Act of 1954, authorizing the assumption of the insurance obligations of any nonprofit association of Federal employees with its members (S. Rept. 686) (p. 7959).

S. 1849, to provide for the grant of career-conditional and career appointments in the competitive civil service to indefinite employees who previously qualified for competitive appointment, was made the unfinished business (p. 8005).

Sen. Williams discussed "loopholes" in retirement laws, urged consolidation of various formulas under which Government employees can qualify for retirement, and listed four cases wherein the individuals involved "found a way to beat the Government retirement system", including a former employee of this Department (pp. 7995-6).

9. ELECTRIFICATION. Sen. Kefauver criticized the administration's power policies (pp. 7982-93).

10. RECLAMATION. Sen. Neuberger inserted a Denver Post editorial favoring the proposed Hells Canyon Dam (pp. 8005-6).

11. FARM LOANS. The Agriculture and Forestry Committee ordered reported S. 1758, to amend the Bankhead-Jones Farm Tenant Act to modify, clarify, and provide additional authority for insurance of loans (p. D626).

12. FORESTRY. The Interior and Insular Affairs Committee ordered reported without amendment H. R. 4046, to abolish the Old Kasaan National Monument, Alaska, and transfer its land to the Tongass National Forest (p. D626).
13. WATER RESOURCES. The Interior and Insular Affairs Committee ordered reported with amendment H. R. 3990, authorizing the Interior Department to investigate and report to Congress on the water resources in Alaska (p. D626).
14. WATER COMPACT. The Interior and Insular Affairs Committee ordered reported with amendment S. 787, granting consent of Congress to Missouri Basin States to negotiate a Missouri River Basin compact (p. D626).
15. LEGISLATIVE PROGRAM. Sen. Johnson announced that after the consideration today of the bill to grant career appointments in competitive civil service to certain indefinite employees, the following bills will probably be considered: To permit certain Federal employees to be given retirement credit for certain State service; readjust postal classification on educational and cultural materials; and any conference reports which may be presented (p. 7958).

ITEMS IN APPENDIX

- 15a. RECLAMATION; ELECTRIFICATION. Rep. Ostertag inserted an editorial from a Buffalo paper discussing proposals for public or private power development of Niagara Falls, which maintained that public power development is only seemingly cheap (p. A4705).

Rep. Wier inserted an article by a member of the Izaak Walton League urging that the upper Colorado bill be defeated to insure the permanent elimination of the Echo Park Dam from this project (p. A4708).

Rep. Hosmer inserted an editorial from a North Carolina paper disapproving of the upper Colorado project because it would benefit marginal areas not suitable for cultivation (p. A4732). In another statement, Rep. Hosmer criticized the Florida irrigation project in Colorado, a part of the upper Colorado project (p. A4740).

Rep. Hillings inserted the platform of the Young Republican National Federation, adopted at Detroit, Mich., June 18, 1955, which includes a statement approving the President's policy of partnership between public and private power interests in water resources development (p. A4735).

Rep. Dawson countered arguments that the upper Colorado reclamation project contained a "hidden interest subsidy," to be paid by all the States, claiming that money paid into the reclamation fund by the four States involved would take care of this item (p. A4740).
16. MUTUAL SECURITY. Rep. Bonner spoke in the House against the Burleson amendments to the Mutual Security Act, which would, he claimed, unduly subsidize foreign shipping companies (pp. A4704-5).

Rep. Bonner inserted a resolution of the Committee on Merchant Marine and Fisheries to delete certain provisions of the mutual security amendments regarding shipping (p. A4709).

Rep. Smith, Wis., inserted a statement by Dr. John H. Reisner, executive secretary for Agricultural Missions, Inc., giving recommendations regarding setting up an international organization to administer technical assistance in foreign countries (pp. A4724-5).

Rep. Tollefson criticized the Cargo Preference Act, stating that it does not guarantee that 50% of shipping will be carried by American ships (p. A4739).

MULTIPLE USE OF SURFACE OF PUBLIC LANDS

Mr. JOHNSON of Texas. Mr. President, I move that the Senate resume the consideration of Calendar No. 559, Senate bill 1713.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. 1713) to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

AMENDMENT OF 1872 MINING ACT OPENING WEDGE TO DESTROY SMALL MINES—OBJECTIVE: LEASING PUBLIC LANDS FOR MINING PURPOSES

Mr. MALONE. Mr. President, Senate bill 1713 has been accepted by many State mining organizations throughout the country under the threat that if they do not accept this amendment to the 1872 Mining Act, they will get something worse. It would establish a precedent for the leasing of all minerals and materials on public lands recommended by Government departments for 22 years, so that bureau heads in Washington may control all prospecting. So far they have not been able to bring it about to put their point over. What they want to do is to control, through a definite leasing system, all the prospectors and all the exploration work done on public lands.

EVERYTHING BUT THE BLUE SKY

The bill would establish a leasing system for sand, stone, gravel, pumice, pumicite, cinders, and clay, and vegetative materials, including, but not limited to, yucca, manzanita, mesquite, cactus, and timber or other forest products. This list includes everything but the blue sky, and would drive the ordinary prospector into his grave.

Forest reserves, parks, and other withdrawals take adequate care of the timber and scenic areas.

NO PRECEDENT FOR PENDING LEGISLATION

The argument is made that the precedent was set for this legislation through Public Law 250, passed by the 83d Congress, chapter 405, first session, under S. 1397.

That act merely coordinated the work on mining claims and ground leases for the development of different types of minerals, including petroleum, on regularly located mineral claims, and provided that the development for petroleum could be adapted to mining claims. If the mining-claim location were first made, then the oil-and-gas lease could not interfere with the mining and development of the minerals on the claim.

It also provided that a mineral claim could be located on the petroleum and gas lease, with the same provision, that the development of minerals should not interfere with a prior locator or lessor to develop the petroleum and gas on the particular land.

The act was a coordination of the development of different types of minerals, including petroleum.

It had nothing whatever to do with the leasing of the vegetation or the harvesting of the timber on a mining claim.

S. 1713 BUREAUCRATIC CONTROL BILL

A new precedent is being established under this bill, looking toward a leasing system under which Government departments and bureau heads would ultimately control all leasing operations.

The senior Senator from Nevada filed minority views on June 22, 1955, in which he pointed out, as set out in the minority views, that—

The purpose of the amendment to the 1872 mining law set forth in S. 1713 is, according to its sponsors, to prevent:

"1. Clearly invalid mining locations, unsupported by any semblance of discovery, and

"2. Mining locations having mineral disclosures which might satisfy the basic requirement of discovery, but which were in fact made for a purpose other than mining.

"3. To make it easier for the Federal bureaus to bring up for review claims and claimants which in their judgment includes land more valuable for another purpose."

That is the statement of the principal witness, Mr. Raymond B. Holbrook, an attorney employed by the United States Smelting, Refining & Mining Co. for 17 years, and who is the chairman of the public lands committee of the American Mining Congress. Mr. Holbrook was the nearest approach to a mining man who appeared for the bill.

TEN WITNESSES—GOVERNMENT BUREAU HEADS ALL BUT ONE

About 10 witnesses appeared at the hearings, which were held in Washington, D. C., only, where no ordinary prospector of mining could possibly come for the purpose of appearing before a committee. Only one man appeared before the committee who had ever had any mining experience. He appeared in opposition to the bill.

He is Robert S. Palmer, executive secretary of the Colorado Mining Association at Denver.

The witnesses who appeared before the committee consisted almost entirely of bureau officials and others who were hired to put this particular bill over, and to establish the precedent which I have already described.

Reading further from the minority views:

The first purpose, preventing invalid mining claims, is amply covered by the present mining law as interpreted over the years by the Supreme Court of the United States. Both the public and the prospector are fully protected, with recourse to the courts.

PROSPECTORS DEPRIVED OF RIGHTS

The second and third—

Purpose of S. 1713, the proposed amendment to the 1872 mining law—that 75-year-old law which laid down the principle with respect to what a prospector's rights are and which has been interpreted and supported by the Supreme Court—

are clearly an imposition on the rights of the prospector since they open the door for the first time in more than 80 years for a Government bureau employee to allege that the land is more valuable for another purpose than mining and bring the case before his own bureau where the only appeal is to a higher employee or official in that same bureau.

Reading further from the minority views:

CONGRESS COULD DESTROY INCENTIVE

Since it is even conceivable that evidence might show that the value for other pur-

poses might temporarily be greater than the immediate value of a small mining property, it is inconceivable that the Congress would allow a bureau official, in no way connected with mining, such as the Forest Service or the Bureau of Land Management, and having no firsthand knowledge of the industry, to be the complainant, judge, and jury.

The history of mining is clear that you must have prospects before you have small mines and you must have small mines before you can have big mines—and that it often requires many years before the larger bodies of ore can be developed, even after they are known to exist.

FIRST LOCATOR SELDOM PROFITS

History also shows that the property may change hands many times through the first locators "going broke" and either relinquishing the claim to another locator or selling out for what they can get because of their inability to continue working the property, or because of lack of "assessment" work simply losing to another locator. Rarely does the first locator profit from the discovery.

There used to be a byword in the ranching business—that it was the third or fourth homesteader of a homestead that made it stick. The mining business is even tougher.

GOVERNMENT BUREAUS

The principal witness, Mr. Holbrook, further testified that—

I quote from Mr. Holbrook's testimony because he was the leading witness for the precedent-making proposal to break down the 75-year-old law, and the Supreme Court decisions, under which a prospector knows what his rights are.

I am reading from Mr. Holbrook's testimony, as set forth in the minority views:

We have had the pleasure of working with the Forest Service and the Bureau of Land Management and understand their position is that these problems could not be entirely met by effective administration of existing laws for the following reasons:

1. The available remedies are slow, expensive, and not conclusive, and

2. There is great difficulty in establishing the invalidity of a location, supported by discovery, on the basis that the location was made for a purpose other than mining.

The PRESIDING OFFICER. The Senate will be in order.

MINORITY VIEWS FURTHER OUTLINED

Mr. MALONE. Mr. President, reading further from the minority views:

The weight of evidence of the witnesses called—all but one holding some Government position—was that the Government bureaus should be given the clear power to determine the validity of a mining location within their own department.

This power in the hands of the bureau officials would destroy the prospector and reverse the Supreme Court decisions for more than 80 years.

They would also have the authority to determine whether or not the land is more valuable for another purpose than mining.

OBJECTIVE—LEASING SYSTEM

It is clear that the Government bureaus are still moving toward a leasing system which they have continually advocated for two decades.

DESTROY LAW INTENT AND COURT DECISION

The prospector can be moved under the 1872 law if he has not complied with it, which is the intent and the extent of the original law.

The Supreme Court decisions, for more than 80 years, have clarified and established the law.

It has been established that if the prospector has complied with the law in setting up his monuments—in filling with the county recorder—and has done the required "assessment" work that a Government department cannot move him or interfere with his work by alleging that "a reasonably prudent man would not expend his money and his effort in the hopes of developing a mine" (Holbrook, p. 91, May 18, 1955).

MINE DEVELOPMENT IMPERILED

I repeat that statement:

A reasonably prudent man would not expend his money and his effort in the hopes of developing a mine.

I read further from the minority views:

The amended act opens the door for continual interference by Government officials.

It limits the locators' inherent rights prior to patent—since when patent issues there is no change in the fee-simple ownership—and the timber, forage, and all other assets go to the patentee. It does not make sense to allow the Government to deplete his claim in accordance with their judgment before patent.

There may have been abuses under the law—but when investigated it will generally be found that the Government has not met its responsibilities under existing law and that the law itself or court decisions provide the remedy.

PROSPECTOR ON THE DEFENSIVE

As it now stands the Government must initiate any proceedings to prove the location invalid—which is exactly what was intended and must be maintained—under the proposed law the prospector will be on the defensive and will be continually harried and tormented by inexperienced and irresponsible bureau officials.

HEARINGS IN MINING AREAS

It is abundantly clear that hearings should be held in the mining areas of this Nation before any action is taken, since no real miners were heard and the mining associations of the several States were clearly intimidated through threats of more severe legislation unless they accepted the proposed legislation as written.

NEVADA MINING SPOKESMAN STATES HIS VIEWS

Mr. President, I have before me a communication from the executive secretary of the Nevada Mining Association, Inc., Reno, Nev., to whom I wrote for advice. In his letter he says:

DEAR GEORGE: Thank you for your letter of May 26. I have noted carefully all that you say therein.

As far as S. 1713 is concerned, please refer to my letter of May 14, 1955. Inasmuch as our members have voted under our prescribed voting system and the fact that all but four of our members voted in favor of the bill, it would ill behoove me to take any stand in contradiction to the expressed wishes of a large majority of the members of the association.

I have always said that if the present mining laws were enforced, there would be no need for new laws and if the present law is not enforced, I doubt if any new law will be.

However, the theory, as expressed by mining men throughout the West, is that unless they accept this law, something much more inimical to the industry will be enacted into law. Whether this is well founded or not, I do not know, but it is a factual condition and there is nothing I can do about it.

With kindest personal regards,

Very sincerely,

LOUIS D. GORDON.

NEW TACTIC EMPLOYED IN PRESSING BILL

Mr. President, the American Mining Congress is carrying on a campaign to

secure the enactment of this bill. I am not critical of the American Mining Congress, if that is what they think should be done, but intimidating State associations throughout the Nation in the mining areas into thinking they must take this bill or something worse is not exactly the way business has been done in the public land-mining areas for the past 80 years.

Reading further from the minority views:

The present simple location system for acquiring prospecting ground for mining is the last stand for the man of small capital.

It requires no money—just a sack of beans and some coffee and many of them have been known to dispense with the coffee until they can show enough to acquire a "grubstake" from someone who is willing to gamble with them.

They can build a rock mound or stick up a stake and lodge the location notice on it—then set up the corners within 30 days and start the location work.

The ground is then his own as long as he does the required annual assessment work and files proof of it in the county recorder's office of his county.

It is not necessary to have a surveyor or an accurate placing of the corners of his property. If he inadvertently takes in too much territory then, when there is a conflict, which there will most certainly be when and if he makes a strike, he can only hold the 1,500 by 600 feet of the regulation mining claim.

MINING CLAIMS "FENCED IN"

Mr. President, if the prospector or miner does not take in the total amount, that is, the distance of 1,500 feet by 600 feet, and someone else locates next to him, he cannot enlarge his claim.

Reading further from the minority views:

Mining is a gamble—it is also a disease, which once acquired means that they will "hit" a mine or die broke. Where a very limited few develop a mine, thousands die broke, but it is the incentive of "striking it rich" that keeps them in the hills where the ore is to be found.

Probably 90 percent of the digging done by prospectors is on ground where no prudent man would dig—and this Nation can thank God that they have continued to dig on such ground, because most of the prospects developing into mines are discovered by these miners confirmed in the faith.

MOST MINES FOUND WHERE PROSPECTS DIM

Mr. President, no one knows better than does the junior Senator from Michigan [Mr. McNAMARA] that that statement is true, namely, that 90 percent of the digging is done by prospectors on ground where no prudent man would dig, but that is where 98 percent of mining properties are eventually found.

I continue reading from the minority views:

The testimony by Government witness, and witnesses inexperienced in the actual prospecting operation, was to the effect that many mining claims are located on ground where no prudent man would dig—prospectors are not prudent men.

There was only one mining man at the hearing who testified and his testimony was emphatically against the bill unless modified—and he recommended that hearings be held in the mining areas before it was reported to the Senate floor. The witness was Mr. Robert S. Palmer, secretary-treasurer of the Colorado Mining Association, which is one of the largest and most important of such associations in this Nation.

Several witnesses have testified that a precedent for this proposed legislation was set in the passage of Public Law No. 250, 83d Congress, amending the 1872 Mining Act.

There could have been no precedent set in the previous legislation for this type of bill since it only dealt with coordinating the use of the same mining claims for different minerals—petroleum, uranium, and other minerals. The amended act provided that you could mine uranium on an oil claim but the petroleum producer had the priority and you could not interfere with him, and that you could develop and produce oil on a uranium claim but that you could not interfere with the operation of the prior locator.

It positively had nothing to do with timber or forage or sagebrush. It had absolutely nothing in common with S. 1713, which does set a precedent for leasing ground for materials.

Certainly hearings should be held in the mining areas. Let the miners have a chance to help work it out.

Quoting further from the minority views:

I believe that if this is done a satisfactory piece of legislation can be worked out that will benefit all concerned, and that will not curb the prospector, and that will not discourage independent investors and "grubstakers" interested in locating, developing, and producing minerals.

If the legislation is to be voted on today as set up without hearings in the mining areas of the country, then its application should certainly be confined to the forest reserve areas where most of the testimony before the committee applied.

INVESTIGATION OF FOREST SERVICE, LAND BUREAU URGED

Mr. President, I have here a letter from J. P. Hall, president of the Western Mining Council, Inc., dated June 11, 1955, which reads as follows:

DEAR SENATOR: Thanks for your help on the Dawson bill (H. R. 5561) and Anderson measure (S. 1713). At both our Redding, June 2, and Weaverville, June 3, meetings we concluded our best hope was to have you urge upon the Senate the move of a western investigation of what we consider the present illegal practices of the agents of the Bureau of Land Management and the Forest Service relative to valid mining claims.

To back up this move a number of outstanding cases were cited. The Gerlinger case in Shasta County has just been heard by the court. The Bureau sold outright four claims belonging to Gerlinger Brothers, of Redding, the purchaser attempting to eject Gerlinger Brothers when they were doing their assessment work. The court found the claims to be valid but held valid the Bureau's deal of allowing a grazing patent on the claims. In other words, the court acted as if the Anderson bill is already law.

Our Trinity County Chapter cited the Pearl Wood case, which has been reviewed by Secretary McKay's office. The Forest Service sold Mrs. Wood's timber and in order to make the sale good proceeded to prove her claims invalid, even though her gravel has run (according to operating witnesses at the hearing) from \$2 to \$4 per yard. The Forest Service engineers tested the worst parts of the claims and when it was finally put to McKay's office, his attorney, Clarence Davis, came out with the ruling that the claims would have to show \$1.50 to \$2 to constitute a "discovery." The witnesses who showed gold taken from the claims were discredited with the statement: "How do we know you took that gold off Mrs. Wood's claim?"

In the same kind of treatment Mrs. Anna Vernon, Cle Elum, Wash., has \$12 gold ore on the dump and high-grade assays as high as \$1,500.

I have a letter from Mr. McKay's office that she would have to have ore running from \$20 to \$30 a ton to constitute discovery.

HOW SMALL MINES DEVELOP

Digressing from the letter, that is exactly the point I wish to make. Many a prospector has dug on claims and has passed them on to his successors, and they have been developed, but where only a trace of gold or a trace of some other mineral has been discovered.

But it is a valid discovery, the Supreme Court has said, and that is how a small mine develops. Thousands of prospectors may search, and very few of their claims may become producers and very few of the producers become mines of consequence.

No prudent person would dig where the ordinary prospector digs. Of course not.

BILL DOOMS SMALL PROSPECTOR

So the bill will finish the job on the prospector, the fellow who works without capital, or who goes to a friend for a grubstake; to someone who will gamble with him.

The practice of chasing prospectors off the claims is already going on, but there is a minimum of it because of Supreme Court decisions of 80 years' standing which set forth the rights of prospectors and miners.

This is positively the first bill ever to reach the Senate floor which sets the precedent, an act which will allow the inexperienced personnel of the Bureau of Land Management and the Forest Service to exercise control.

BUREAU BOSSES GREEN HANDS IN MINING FIELD

Ninety percent of them are inexperienced in the very field which they are supposed to know—the public range. They are absolutely inexperienced and green hands in the mining business.

They put the prospector on the defensive.

They allege that no prudent man would dig on that ground. Certainly no prudent man would dig on it. There are few if any prudent prospectors. That is the reason why we are in the mining business, because due to the 1872 Mining Act and the Supreme Court decisions the prospectors could control their ground.

PROTECTION DESTROYED IN 1934

Twenty-two years ago—1934—an act was passed which took away practically all the protection afforded the American workingmen, investors, and prospectors who made their stand in the hills, and put the 50-cent-a-day laborers in Burma in direct competition with the \$12-or-\$15-a-day American workmen. That is to say, the foreign workers had a \$10-to-\$13-per-day advantage.

There is a bill in the Committee on Finance which would lower the income tax on foreign-earned income by 14 percent. I am glad I am a member of that committee. Under the terms of the bill now before the committee, there would not only be the advantage of cheap labor in Burma and other foreign countries, but the investor could come back

with his profits and pay 14 percent less income tax than if he had earned it in the United States.

PENDING BILL "LAST STRAW" FOR PROSPECTORS

There is not sufficient time today to describe all of the approaches to destroy this Nation; but when the foreigners seeking to divide our markets come in the door, and we shut the door, they come in the windows. When we shut the windows, they come up through the cellar door.

Now the last straw for a mining prospector is the proposal to allow a man who has never seen a mine to go to a prospector and tell him, "We are going to rent this ground to another person because no prudent man would dig on what you call your discovery."

PRESENT LAW AMPLE TO HALT ANY ILLEGALITY

I am not objecting to stopping an illegal entry. I am advised that the law allows plenty of leeway to stop a man who might try to locate an illegal claim on a forest reserve.

All that is necessary is to follow it through with the law as it now is. The Government can take a man off a claim under present law, if he does not have a valid discovery, but under the decision of the Supreme Court, invalidated through that act, you cannot take him off because a Bureau of Land Management official says that "no prudent man would dig there."

It has been said that someone set up a bar on a mining claim. He established a location and puts a bar on it. It is the easiest thing in the world to prove such a thing and to dislodge such a person.

Some say they locate the claim for the timber. It is necessary to do \$500 worth of development work on a mining project before it can go to patent, and it is necessary to convince a mineral surveyor, who is under \$5,000 bond to the Federal Government, that the work has been done on a valid discovery. I was a licensed mineral surveyor for 25 or 30 years in Nevada and California. A mineral surveyor is under oath, and he must forfeit his bond, if when his ruling is investigated he is found to have sworn to an illegal or untrue statement.

NO NEW LAW NEEDED IF PRESENT LAW ENFORCED

So I return to the letter. It has been well said in the letter from Louis D. Gordon, secretary of the Nevada Mining Association, that if the present laws are enforced, "It is my opinion we do not need new ones."

If it is timber about which the Government is worried, why use the timber as the entering wedge to run mining prospectors off the public lands? In my State of Nevada, the public owns 87 percent of the lands. Why do they own it? Because there has been no law passed by Congress under which the land can be taken up and developed except the 1872 mining law. Water is not available for farming much of the land, but it can be located and developed under a mining claim.

When the prospector believes he has a discovery, and believes it strongly enough so that he will stay there and dig

on the claim, eventually, with the hardihood of prospectors, he may establish a successful claim.

But I content that the Government has mortally injured many prospectors by the free-trade acts which Congress sought to pass almost without debate, except on the part of the senior Senator from Nevada.

HOW COLLEGE GRADS NOW RULE THE RANGE

The prospector is still in business, and he still continues to dig where no prudent man would dig; and so long as he continues digging, the Supreme Court has, in most cases, upheld him.

But now it is sought to amend the law, so that a college graduate from Yale or somewhere else, who has never seen a mine, who has never seen a piece of ore bigger than a sample, will be permitted to regulate the range on a mining claim. Many of the college graduates have never seen a cow, much less a mine. They have no knowledge of the range or of this particular subject. Yet they are mortally injuring the livestock men of this country under the same act now in the Bureau of Land Management, which was the Taylor Grazing Act of 1933.

Now they can tell a prospector, "You don't have a discovery, because it does not assay \$20 a ton; and no prudent man would dig there." And they apparently make it stick.

BUREAU PROBE SHOULD PRECEDE LAW CHANGE

I read further from Mr. Hall's letter. He has reviewed specific cases, and then says:

These are just a few of the reasons why the illegal practices of the Bureau of Land Management and the Forest Service should be completely investigated before any attempt is made to fortify their position with such measures as the Dawson and Anderson bills.

Claimholders are not opposed to a just division of the timber on their claims but will oppose the Forest Service telling them how, when, and where to cut their just portions. We are for your suggestion of western hearings of this situation before any new bills become law.

TIMBER AMENDMENT VAGUE

Mr. President, there was offered and accepted to the bill an amendment providing that if all the timber is cut while the land is still being prospected, while it is still in the location stage, and then the prospector or a successor discovers a mine, the Government will furnish the timber that is needed.

Mr. President, what would that entail? How much timber are they going to furnish? Are they going to go out and measure the stumpage?

MINING COUNCIL OPPOSITION DEFINED

I also have a telegram from Mr. J. P. Hall, president of the Western Mining Council, Inc., at Santa Cruz, Calif., dated the 7th of this month. It is addressed to Hon. GEORGE W. MALONE, United States Senate, Washington, D. C., and reads:

Western Mining Council, Inc., meeting in regular monthly session in Redding June 2 went on record as not opposed to equitable division of timber on plains and national forests but opposing other provisions of multiple use we urge hearings on bills in western areas before passage of S. 1713.

Mr. President, I have a letter from Mr. Harold M. Morse, of Morse, Graves & Compton, attorneys, Las Vegas, Nev., which reads:

HON. GEORGE W. MALONE,
United States Senator,
Senate Office Building,
Washington, D. C.

DEAR SENATOR MALONE: This will confirm our telegram in answer to your telegram of June 7.

LEGISLATION SPEEDED TO FLOOR WITHOUT AREA
HEARINGS, INVESTIGATION

I was trying to find out how all this came about without the prospectors and the attorneys for the prospectors even knowing that the measure was headed for the Senate floor, and without hearings being held outside of Washington, D. C. Who would pay to come 3,000 miles to Washington? At least no prospector has the money to finance such a trip.

The way measures go through the Senate now, all that is necessary is to get them to the Senate floor, and they go through without any adequate investigation. Apparently everybody is embarrassed in opposing any measure, regardless of what it may do to the economy of the country.

The letter from Mr. Morse reads:

This will confirm our telegram in answer to your telegram of June 7.

I carefully read your letter of May 27. You are absolutely correct in stating in your said letter that the Federal Supreme Court has passed on all phases of an 1872 mining act as amended, and the act itself and the decisions of the Federal Supreme Court amply protect the Government and anyone else from any misuse of a mining claim, either before or after patent. I will send you a decision or two shortly to the effect that where a party located a mining claim in a national forest, which was open, however, for mineral entry, and then used the surface of the claim to conduct a saloon, the Department of the Interior was justified in voiding the patent even after it had been issued, on the grounds of fraud.

The remedies exist, Mr. President.

BILL BOON TO "TINHORN CZARS"

I read further from the letter:

It is interesting to note from your letter that the 8 or 10 witnesses heard by the committee were all Government officials. Even a blind man can read the great boon it would be to the Bureau of Land Management to have this bill passed. We would have more tinhorn czars running around than have existed since Stalin—and I mean this sincerely. Why in the name of God Congress would delegate to the Secretary of the Interior and through him to the Bureau of Land Management, to use discretion in granting surface rights and use thereof, etc., I will never know. They should by the same token surrender their oaths of office to themselves—but I guess I get too angry every time Congress does delegate their power and authority to some agency. They should begin to realize they are going to delegate themselves out of office entirely.

SENATE SHRUGGING OFF POWERS TO EXECUTIVE

Mr. President, over the last few years the Senate of the United States has done just about that. It has just about legislated itself out of existence, as far as effectiveness is concerned. Every proposal which comes to the Senate floor to delegate authority to the President of the United States is passed almost without question.

I have stood on the Senate floor for 9 years and watched that done, and it was done for 12 years prior to that time.

CONSTITUTIONAL RESPONSIBILITIES SET ASIDE

Act after act was enacted which delegated the constitutional responsibility of the legislative branch of Government to the executive branch. Then the executive delegates it to a person in a bureau of whom no one has ever heard and of whom no one will ever hear, but that person makes the decisions.

I suppose it is easier to do it that way, because to make one's own decisions here on the Senate floor might be criticized. One of these days Congress is going to be criticized for delegating its constitutional authority to the executive branch of the Government.

CONSTITUTIONALITY OF TRADE ACT UNDER TEST
IN COURTS

There is now in court a case concerning the constitutionality of the 1934 Trade Agreements Act, the Geneva General Agreement on Tariffs and Trade, which is a Tinker-to-Evans-to-Chance setup.

The Constitution of the United States charges the legislative branch of our Government with the responsibility of regulating the national economy, foreign trade through setting the duties, imposts, and excises, which we call tariffs. What does Congress, the legislative branch do? It transfers that responsibility to the executive branch, and the executive branch transfers it to Geneva, 3,000 miles away, to GATT—the General Agreement on Tariffs and Trade—where representatives of 34 nations sit down to divide the markets of this Nation among them. There was no game until we decided to go into it for 3 more years through the House bill—H. R. 1. There would have been no game if we had not extended the 1934 Trade Agreements Act. But when we sat down in the game at Geneva we were putting in the pot our markets, so the game goes on with 34 nations—33 boosters in the sucker poker game—and us. Every other nation protects its own industry. We are the only people not for our country.

TRADE AGREEMENTS A DODGE TO AVOID TREATY
ACTION IN SENATE

Mr. President, the communication from which I have just read is only one such communication. I have received dozens of them. Why did the Bricker amendment provoke a great controversy over the Nation, when almost two-thirds of the Senators voted for it? When that many Senators vote for such an amendment, the situation must be serious.

The people of the Nation are tired of Congress delegating its constitutional responsibility to the Executive. That is why that happened.

They are tired of having this Nation make trade treaties with foreign nations, calling them trade agreements, not treaties, to avoid coming before the Senate of the United States for a two-thirds vote.

These trade agreements are treaties, Mr. President. In the Federal district court in Washington the only woman Federal district judge has that question under consideration. I am of the opinion that she is a real American.

I refer again to the letter from Mr. Harold Morse:

To show you that other people are beginning to think about the racket that is now being operated by a mess of crooks selling surface rights to Government land, I am enclosing the following:

A letter which appeared in the Los Angeles Times of Sunday, June 5, 1955, from a person who apparently was stung and was advising others not to get stung likewise.

An advertisement which appeared in the Los Angeles Times on Sunday morning, May 15, 1955.

An editorial which appeared in the Los Angeles Times on Saturday morning, April 30.

Of course, at times it is a very conservative newspaper and perhaps you had read the editorial but in any event it answers in part that portion of your letter to me in which you stated you sometimes wondered if anyone appreciated your efforts along certain lines mentioned in your letter. I would say offhand that the editorial in the Times commends your personal efforts very highly, and I might add that if the late Harry Dexter White were now alive he would be red hot and riding full herd in support of the so-called multiple use of surface rights, being Senate file 1713.

I again respectfully urge you not only to write a minority report but to take the floor of the Senate, not only as a Senator but as a mining engineer, to see if you can't convince that body to leave our present mining laws alone as we certainly don't need any more State socialism or any more czars in the Bureau of Land Management—but I guess I'd better quit.

Sincerely yours,

HAROLD M. MORSE.

So even an attorney gets discouraged at times, Mr. President.

I ask unanimous consent to have printed at this point in the RECORD, as a part of my remarks, the dispatches referred to in the letter.

There being no objection, the letter, advertisement, and editorial were ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times of June 5, 1955]

CAUTION URGED ON LAND DEALS

This letter is written in the hope that it will spread a word of caution to people contemplating or already making application for lease and sale of United States Government 5-acre tracts near booming Las Vegas.

There is much misrepresentation and misunderstanding regarding the facts on the requirements of the Bureau of Land Management, United States Department of the Interior, to acquire title. As a consequence, there will be a lot of unhappy people after the 3-year lease period is completed.

So-called land locators are nothing but a private service and some of their salesmen are clouding the facts and exaggerating what must be done to meet requirements as laid down by the United States Government.

First check with the Bureau of Land Management, Nevada State Office, Post Office Building, Reno, Nev. This writer wishes that he had checked on facts on the three methods to meet requirements and not listened to double talk to determine if:

1. You only have to put up a shack, fence, or "bed down" a trailer on the 5 acres or if you have to construct a house or cabin in compliance with Clark County, Nev., Building and Sanitation Code.

2. You only have to dig a water hole 5 or 6 feet deep or if you have to have a domestic water well drilled by a licensed well driller in compliance with the specifications of the State engineer of Nevada (and this type of drilling runs into money).

3. You, in an outright purchase arrangement of the 5-acre tract, pay the Govern-

ment's fee of \$25 and the locator's fee (usually \$100) plus what the locator told you was the appraised value per acre or if you pay the Government's fee of \$25, the locator's fee, the appraised value per acre (set by the Government—perhaps not what the locator stated) plus \$700 more to the Government.

Also if:

The payment of \$25 and the locator's fee includes escrow, lawyers, and surveying fees or if no escrow or lawyer's fees are necessary and the only surveying done was done by the Government on a large scale (not for 5-acre tracts).

The appraised value of the 5 acres the locator quotes is the Government's figure or if the Government hasn't appraised the land as yet and when it does the appraised value will be much more than the salesman stated.

There are honest locators and there are dishonest ones.

The racket for the dishonest land locators is a sweet one. They receive \$100 to make out a form, put it in an envelope and affix a 3-cent stamp and mail it. Then they have 3 years (during the lease period) to clean up and be on their way before the facts come to light and the roof blows off.

Be cautious—learn the facts from the party with whom you are doing business—the United States Government, Bureau of Land Management.

L. E. D.

LOS ANGELES.

[From the Los Angeles Times of May 15, 1955]

Exercise your rights as a United States citizen. You as a native-born or naturalized citizen over 21 have the privilege of claiming up to 5 acres of Government land. Choice locations now available near booming Las Vegas, Nev. Land-filling service open daily, including Sunday, 9 a. m. to 9 p. m., in Hollywood, 1213 North Highland, HO-56111; in San Fernando Valley, 14802 Ventura Boulevard, STate 49951; in Long Beach, 806 American Avenue, L. B. 77469.

[From the Los Angeles Times of April 30, 1955]

HEMISPHERE RESOURCES AND DEFENSE

There is an important paragraph contained in the report filed by the United States Senate's subcommittee entrusted with a study of the availability of strategic materials which would be needed in the event of another war. The paragraph is this: "The Western Hemisphere can be defended and will be the only dependable source to the United States of critical materials in the event of an all-out war."

COUNSEL BY EXPERTS

This was the summation of an investigation which took the better part of a year and in which more than 360 witnesses, representing some of our most distinguished scientists, engineers, military and economic experts, gave their advice and counsel. The end result was, in their opinion, that the United States and Canada, with the close cooperation of the countries of South America, can provide themselves with all of the materials of modern warfare without reliance on the countries of Asia and others scattered in far parts of the world.

These materials range from antimony and asbestos to vanadium and zinc with such familiar items as rubber, tin and manganese included in between. In all, there are 77 minerals and materials listed as essential to the capabilities of the United States in fighting a major war, and in practically every instance the subcommittee, which was headed by Senator GEORGE W. MALONE, of Nevada, reports that our own hemisphere is able to meet the needs that would arise in the time of a major war.

It is on the premise that we are not taking full advantage of the potentials that exist in our own production of strategic materials that the Malone committee report makes some of its strongest points. There is the case of titanium, for example. It is among the most modern of metals, light, durable and strong, and its use in modern fighting planes is a must if our Air Force is to be considered as a first-class fighting force.

TESTIMONY GIVEN

Yet the testimony presented before the Malone committee showed that we are producing approximately 2,000 tons of this metal annually—with two-thirds of our production concentrated in one State—when the considered judgment of witnesses before the committee was that we need a minimum of 150,000 tons annually in the production of military planes alone.

Titanium ores abound extensively not only throughout the United States but in such other countries as India, Australia, Norway, Brazil, Sweden, and—significantly—the Union of Soviet Socialist Republics. It is scarcely to be doubted that the Soviets are taking full advantage of all the titanium ores they can lay their hands on.

As far as titanium is concerned, it is a case of not making the most of our own natural resources. With such things as rubber and tin, however, we long depended on Malaya as a principal source of supply and our complacency in this direction received its first rude jolt when the Japanese plunged us into World War II. We built up a synthetic rubber industry, of course, which helped meet the emergency and we scraped and skimped on not only rubber but tin and scores of other materials that we formerly had brought to us from faraway shores.

The chief thing now, as the Malone report points out, is whether we are going to continue to depend on long-overwater shipments of vital materials to this country in the event of a new war. Such shipments were a hazardous enough undertaking in the days of World War II under the constant threat, as they were, of submarines and aircraft which have long since been outmoded.

POTENTIAL ENEMY

Convoys which were mauled and hurt in some degree by the Nazi submarine wolf packs in World War II would face obliteration in the explosive vaporization of a single atom bomb in the event of another world war. And there is no guaranty, either, that the foreign countries from which we obtained so many of our vital resources in the past would be kindly disposed toward selling them to us; particularly those which are within range of quick atomic destruction from our potential enemy.

The Malone report says that the natural resources and the technical ingenuity of the United States, Canada, Central and South America are such that this hemisphere with the proper planning and foresight can stand on its own two feet and live and protect itself, for and by itself alone, if ever such an emergency should arise.

It is an encouraging departure from the thought insidiously promoted in some sections of former administrations that the United States must always depend on the importation of certain strategic materials from lands far across the seas. Among the ardent advocates of such viewpoint in the Truman-Roosevelt administrations was the late Harry Dexter White, who has been revealed as an obedient servant of the Soviet espionage ring that was active in his time in Washington.

BIG INDUSTRY FOR SYSTEM—SMALL PROSPECTOR OUT IN COLD

Mr. MALONE. Mr. President, the Times editorial is a description of Senate Report No. 1627, a digest of 10 volumes of testimony of 360 witnesses showing

how the Western Hemisphere can become self-sufficient in the production of critical materials. This report and hearings are by the Minerals, Materials, and Fuels Economics Subcommittee of the Interior and Insular Committee, of which I was the chairman.

Mr. President, I refer to page 192 of the printed proceedings of the hearings on S. 1713, which were held in Washington, D. C., in which 8 or 10 witnesses appeared, including only 1 man who had had any experience whatsoever in mining. All the rest were Government officials, or persons hired by an organization to put this bill over.

In this connection, I refer to the testimony of Mr. Holbrook. He was the principal witness. He works for a large company in Salt Lake City which would benefit from a leasing system.

Any large company which has the money to pay attorneys and engineers and keep them continuously on the payroll cannot lose under a leasing system; but a prospector who has nothing but his food supply—and many times a poor one—and who lives on one of these claims, would be put in jail for non-payment of salary if he employed a lawyer or an engineer, because he does not have the money.

TESTIMONY OF COLORADO MINING SPOKESMAN CITED

I refer now to the testimony of Mr. Robert S. Palmer, executive vice president of the Colorado Mining Association. He is also in the uranium mining business. He was discussing minerals which are discovered by persistent prospecting and exploration. The prospector can own the mineral when and if he finds it.

Perhaps in one out of 500 locations a prospector will discover a small property which will produce some paying ore. The difference between ore and country rock is the profit—ore is country rock that can be mined at a profit. Out of 500 properties which produce some paying ore, there may be one big producer, if people are willing to gamble. But the gambling does not pay off for everyone. We hear only about the successful miners.

In connection with Virginia City in the old day, we hear about the Mackeys, the Floods, and the Fairs, making millions of dollars. We do not hear of the thousands of prospectors who honey-combed the hills around Virginia City, 17 miles out of Reno, and died broke.

If one were to calculate the value of the labor expended in those hills, he would probably find that more money in labor and supplies was put into those hills than was ever taken out—and a billion dollars was taken out.

PROPOSED BILL WOULD HAVE STYMIED WESTERN MINE DEVELOPMENT

What would have happened if those operations had been under the direction of an official of a Bureau of Land Management who handled cattle and sheep, and did not even know much about that subject? He would have told the prospector that no prudent man would dig where he was digging—and get rid of him.

For months a type of silver ore was being thrown away as waste, and the

mines were not paying. It was a murky looking ore, a kind of blue mud. No one had ever seen anything like it. Most of the prospectors went broke and left or disposed of their holdings before the values were discovered. Then someone had the blue mud assayed, and that ore proved to be the highest paying silver mine in the world.

Under a leasing system, long before that time the prospectors would have been put off by a graduate of some college who came out there to regulate cattle and sheep, on the theory that no prudent man would dig there. And he would have been 100 percent right—but thank God they were not prudent men—they were prospectors and miners—fighters with the look of the eagle in their eyes.

After testifying for several minutes before the committee, Mr. Palmer said:

I say that officially we agree with you on this legislation. We are trying not to disagree with you. If it were sponsored by others we certainly might.

He is speaking to the acting chairman of the committee [Mr. ANDERSON], who has always supported the mining people. He said:

You are Chairman of the Joint Committee on Atomic Energy.

URANIUM EXPERIENCE CITED AS EXAMPLE

I should like to illustrate how wrong one can be with respect to this subject.

As late as a year ago the former Chairman of the Atomic Energy Commission wrote a book—I refer to Gordon Dean—

Mr. President, I have a high regard for Gordon Dean. I think he was one of the best chairmen the Atomic Energy Commission ever had. I think he is an honest man, an earnest man, a man of integrity, and a man who understands his business. He wanted to be helpful—but he was wrong. He was reporting, as of that time, the knowledge which was available.

As late as a year ago the former Chairman of the Atomic Energy Commission wrote a book—I refer to Gordon Dean—A Report on the Atom, which led the reader to conclude that there were no substantial amounts of primary uranium ore in the United States. In other words, the United States was largely dependent for its sources of atomic energy on outside sources.

PRESIDENT'S SPEECHES RECALLED

Mr. President, I digress from that testimony to say that 3 years ago the President of the United States made certain speeches on this subject. About certain areas that we must protect to secure certain minerals. I do not blame the President of the United States, because certain information was placed before him. He, of course, had no personal knowledge of the situation. He has not made any such speeches lately—not since last August.

Reading further from the testimony:

Senator ANDERSON. That is not the interpretation of that statement, I don't believe. Gordon Dean knows that the Colorado plateau is full of uranium, and says so in the book A Report on the Atom.

Mr. PALMER. Gordon Dean specifically stated in the book that there were no substantial amounts of primary uranium ore in the United States.

Senator ANDERSON. Is there?

Mr. PALMER. Since that report the people to whom you have referred as going out and locating mining claims have uncovered primary deposition of substance in the United States. Just before leaving the West it was announced—

This was on the 19th of May—

that in a new area in Utah which had previously been pronounced barren, uranium ore was being found as a result of drilling. Claims which some people would have condemned as invalid locations were now valid.

PROTECTING CLAIM NOW DIFFICULT, EXPENSIVE

We have even had testimony to the effect that a man who has plenty of money, and who is in the uranium business in that locality, has hired people to dig continually on each claim, so that there can be no doubt that it is a valid location, because if one of these bureau officials, who got all his information from a book or in school, but has acquired no actual experience, came out there, they would be able to put him off the land, because he could not hold the claim without a discovery on which a "prudent man dig" or have a man continuously digging to hold the ground even under the 1872 act if he was to hold the ground against the onslaught of the horde of bureaucrats.

Mr. Palmer goes on to say:

Claims which some people would have condemned as invalid locations were now valid. Because somebody had sense enough to put down a drill hole, and ore was found at a depth.

Mr. President, the Senator from New Mexico is quoted as stating:

Gordon Dean and I discussed that before his book was published and while he was engaged in the writing of it. So I say to you that it is a confusion of terms. He understands that there is uranium in this country.

HARRY DEXTER WHITE THESIS STILL HELD BY SOME OFFICIALS

However, Mr. President, high officials in this Government, especially those who are not particularly interested in this Government—the modern Harry Dexter Whites—were saying that there was no uranium in this country, as they had been saying for 20 years that we were running out of other minerals and as Harry Dexter White said in a memorandum to Secretary of the Treasury that we only had a 12-year supply of petroleum—that it must be saved for emergencies while we imported what we annually used. Silly but dangerous to our national security. The modern Harry Dexter Whites said that therefore we must defend Africa and we must defend Europe and Asia in order to import those critical minerals and materials.

HEMISPHERE SELF-SUFFICIENT IN URANIUM, CRITICAL MINERALS

After the Minerals, Materials, and Fuels Subcommittee had written its report and submitted it to the Senate on July 2, 1954—and the report had been printed as Senate Report No. 1627—I said to a high Government official, "If you will just treat our taxpayers half as well as you do the foreigners, you will have uranium running out of your ears in the United States within 2 years. If you add Canada and Mexico, that is all the area you need from which to get your uranium."

As I have said so often, and as it stated in the report, we could produce all the critical minerals and materials in the Western Hemisphere that we need to fight a war or to live in peace. No one has questioned that statement.

UNITED STATES MINERAL OUTPUT WILL INCREASE IF CONSTITUTION FOLLOWED

In the report we said that the production of critical minerals and materials could be materially increased in this country if we acted in accordance with the Constitution of the United States and recommendation No. 2 in the report. That Congress reassume its responsibility of regulating foreign trade and the national economy—in accordance with article I, section 8 of the Constitution.

PALMER TESTIMONY REPRINTED

Mr. President, I ask unanimous consent to have printed in the RECORD at this point Mr. Palmer's testimony on pages 193 to 204 of the hearings.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

Senator ANDERSON. I am sure there must be a misunderstanding as to his use of the term because at the time he wrote the book, just prior to his writing the book, he discussed with me the large mining in New Mexico which has \$100 million worth of uranium ore. You and I know which State now has the largest undeveloped uranium ore deposits in the Union.

Mr. PALMER. I recognize your leadership, sir.

Senator ANDERSON. Gordon Dean and I discussed that before his book was published and while he was engaged in the writing of it.

So I say to you that it is a confusion of terms. He understands that there is uranium in this country.

Mr. PALMER. Yes as to the deposits which are not considered as primary. I think the term I am using is correct. I think the term used by Gordon Dean was correct at that particular time. I am not criticizing Mr. Dean. I have a very high regard for him.

But the point I make is that some people are criticized for making questionable locations, which later developments prove are very much in the public interest. The people who are primarily responsible for the uranium development in the United States are not major companies and are not necessarily engineers or capable locators but just average Mr. America. The people who have brought into production the major deposits of uranium in the United States have been the prospectors concerning whom Senator GEORGE MALONE has addressed a great many of his comments.

I wish to point the value of the prospectors.

Senator ANDERSON. I don't argue this question of prospectors, not only in these minerals but in oil. We all know the story as to who digs up the new fields and brings them in.

As I say, I recognize that you don't always succeed.

You are familiar probably with the mining venture that I got myself into in the northern part of New Mexico.

Senator MALONE. Mr. Chairman, I would say right at that point, and I think the distinguished Senator from New Mexico, if he stops to think, knows as well as the Senator from Nevada or the secretary of the Colorado Mining Association, that it is the wildcatters and prospectors without adequate funds, many times without any funds, to carry through the operation, that go out and find this material—oil, gas, and minerals—because they just have nothing better to

do. They spend their lives doing that. If they hit it, they make some money; that is, if Washington does not interfere with it; and if they do not hit it, they die broke.

Hundreds die broke where one makes it. We all know that. It is a fever.

Now, the men with the money generally are represented by an engineer of some reputation. He sends his engineer in after the discovery has been made. These engineers really go out on exploration ahead of time.

Now, they do have some that do that, but the majority of the explorers and prospectors and wildcatters are financed by their friends or through selling stock.

I could name 5 or 6 men that have money or have backing, like Odium, who has gone in and bought out 1 man that did not know any more about prospecting for uranium than my grandson, bought him out for \$9 million or \$10 million. He says himself in his life story that he knew nothing about uranium, but he went in there with his wife and they worked like a pair of slaves and they had a little luck of the Irish and they found some ore that the money was attracted to.

I could name 5 or 6 that have gone in there, but they did not go in and find it. They go in on some of these people that found it on the claims that these experts, these soft-cushion experts in Washington, would have run off the claim.

They are the people I am talking about.

The fellows that these men have testified to, this is the second day, would not let these people go. They would say no prudent man would put his money in there. Of course, they wouldn't. But they are not prudent men, these wildcatters, in the oil and gas. They are not prudent men these prospectors. They are men sometimes at the end of their rope. They have to do something and they have this fever. When they get the showing, which 1 out of every 100 maybe gets, gets something like Odium or someone representing them, and they buy control.

Very often the man who sells it doesn't make much money, but it is a good deal to them. But they have money to lose. But the men we are interested in are the men these people have been talking about for 3 or 4 days. What did they call it? They had a name for it. Fraud. That is what they said. These are fraudulent claims that this man found this uranium and got \$10 million. That is a fraudulent claim, if these fellows had examined it ahead of time.

Senator ANDERSON. That is not correct.

Senator MALONE. There is nothing in there that a prudent man would put money in.

Senator ANDERSON. Let me ask this question: Is it any cheaper for a miner to defend himself under the rules and procedure now established under the law of 1872 than it would be under S. 1713?

Mr. PALMER. The answer to that question obviously as to the validity of his claim is "no." But the full answer to the question is that there is an obligation placed upon the locator under the terms and conditions of this bill which does not exist in the present legislation.

Senator ANDERSON. As to surface rights not needed for mining?

Mr. PALMER. Well, of course, people may differ as to what surface rights needed for mining are.

May I point out, to you, Senator, that there are some other questions involved in this bill which are quite substantial. For example, at the present time, they are finding uranium in conjunction with coal beds. Now, under the terms and conditions of this bill it is possible for a licensee to acquire coal lands and to have a very definite advantage over a locator of uranium on the same area; that is a question which I do not think can be decided at this hearing, and undoubtedly will require some interpretation.

I understand the commission is giving it some thought and consideration at the present time.

Senator ANDERSON. Let me say that when that arrives, I will try just as hard as I tried on the original Public Law 585 to be fair and to be helpful to the people in that area as will Senator MALONE and everybody else. I do not believe we have different goals. I do believe very strongly that the continued filing of mining claims for the purpose of getting surface rights and not intending to try to get the minerals is placing the whole mining program in jeopardy. Such practices make it more difficult to be of assistance to mining than it has been in the past.

My whole purpose in sponsoring this proposed legislation from the very beginning was to try to make sure that we did not get so many bad practices that the prospecting for minerals would get into difficulties. I still hope to keep it on that basis.

Mr. PALMER. Will there be bad practices under your law as well as under present law?

Senator ANDERSON. I think there will not be. I think, for example, the people who go and try to acquire a piece of mineral land for the sake of water and timber will not do it.

Mr. PALMER. I wish to point out, Senator, and I am sure you are familiar with the area in which most of the uranium is being found, that it is not in a green forest with a babbling brook flowing through it but an isolated area where temperatures go as low as 25 or 26 below, where mud conditions are extreme and where sand and other difficulties are encountered causing a great hardship for those miners who seek to locate claims in these areas.

Senator ANDERSON. I agree with you completely. I wish you would do this, Mr. Palmer, if you have any additional suggestions with regard to this bill or any additional points that are at issue, that you would submit them to the committee.

We do not want you to feel that we are not interested in your opinion. We are very much interested.

Mr. PALMER. Thank you very much.

Senator MALONE. Mr. Chairman, I would like to ask Mr. Palmer a couple of questions because I think it might clear up some of the uncertainties in the testimony.

Would you for the record, Mr. Palmer, give us a statement on the coordination of the Federal and State laws as far as the location of mining claims is concerned, whether the Federal laws cover it and the area covered by State laws?

Mr. PALMER. May I call your attention to the fact, Senator, that the State of Colorado and the State of Wyoming have recently amended the location requirements?

Senator MALONE. This is important, Mr. Chairman.

Mr. PALMER. In other words, doing away with the necessity of the former requirement of a 10-foot pit or shaft. Both of those statutes have nothing to do with discovery but simply with location shafts and, under new procedure both in Colorado and Wyoming was adopted permitting other methods of discovery. These State laws were designed to do away with the criticism that bulldozers were being used across the country and ruining the grazing and forestry areas. No longer in these two States, nor in Utah for that matter, is it necessary to sink a location shaft.

I think the practice in Wyoming and Colorado will be to use other methods of discovery of minerals in place rather than digging a pit 10 feet deep; such a shaft is still required in Nevada, I believe.

Senator MALONE. That is a pit?

Mr. PALMER. That is right.

Senator MALONE. Now, you changed the law there so that the required amount of work, \$100 worth of assessment work, can be done in a different way?

Mr. PALMER. A drill hole is sufficient.

Senator MALONE. If you spend \$100 in diamond drilling, for example, you have done your work?

Mr. PALMER. And make a discovery.

Senator MALONE. That, then, is in the control of the State itself, is it?

Mr. PALMER. Well, the discovery provision is a Federal provision.

Senator MALONE. But the method of discovery?

Mr. PALMER. The method of discovery or the regulation is a matter of State requirement.

Senator MALONE. The discovery that is required by the Federal statute has nothing to do with the type of work?

Mr. PALMER. That is right.

Senator MALONE. Does it specify the amount of work?

Mr. PALMER. It simply is that the accepted definition of a discovery is a mineral in place and such quantities as will justify a reasonable person in pursuing the development of his claim.

Senator MALONE. That is now the law?

Mr. PALMER. That is the law.

Senator MALONE. The point is, then, that there is no requirement in the Federal law that any work be done at all. If you make your discovery in an exposed ledge, that is all that is necessary?

Mr. PALMER. That is right, except the annual assessment requirement of \$100 a year.

Senator MALONE. That is a Federal law?

Mr. PALMER. That is a Federal requirement.

Senator MALONE. That is what I wanted to establish for the record. How you do that \$100 worth of work is within the purview of the legislature of the State.

Senator ANDERSON. The discretion of the individual, is it not?

Mr. PALMER. The detailed requirements are generally set forth in State legislation on location. I know of no specific provisions on annual assessment work but the courts have held consistently that the work must be done in improving the property.

Senator MALONE. You say that the law has changed from a 10-foot shaft in Colorado and in Wyoming to allow the work to be done in another manner, like the diamond drilling?

Mr. PALMER. That is right; that is in the establishment of your valid location.

Senator MALONE. And could be by a bulldozer?

Mr. PALMER. It can be done by a bulldozer, yes.

Senator MALONE. In Utah, you say it is still a law that you have to have this 10-foot shaft?

Mr. PALMER. No, it has never been the law in Utah but it is the law in Nevada, I believe.

Senator MALONE. But that has not been changed?

Mr. PALMER. That has not been changed.

Senator MALONE. And you still have to have the 10-foot shaft?

Mr. PALMER. That is right.

Senator MALONE. For discovery?

Mr. PALMER. Yes.

Senator MALONE. And to do the assessment work?

Mr. PALMER. It has nothing to do with the assessment work.

Senator MALONE. Establishing the location?

Mr. PALMER. Establishing the validity of your location; that is right.

Senator MALONE. In other words, if you in Nevada discovered a ledge, outcropping, you still have to sink your 10-foot shaft?

Mr. PALMER. Senator, that is a matter of Nevada law and I am not thoroughly familiar with the court interpretation in your State, but I feel reasonably sure they would follow the same reasoning and procedure which exists in Colorado.

Senator MALONE. But it is the law?

Mr. PALMER. It is the law.

Senator MALONE. Now, as long as that is the law, that you have to have a discovery, then, if I have followed your testimony, all the departments have to do is to enforce the law?

Mr. PALMER. That is correct.

Senator MALONE. Now, I am very much interested in your testimony and your resolution there that this act, if it is passed, be confined to the forest areas.

Does your resolution confine it to the forest areas or the forest reserves?

Mr. PALMER. To the national forests, the reason for that being that the complaint we have read in the press has generally been designed to impress the public with the incorrect idea that miners are going out and making locations in forests and destroying the forest reserves of the Nation.

If that is the intent and purpose of this legislation to correct that, then why should these isolated areas such as I have mentioned in the Four Corners district in which uranium is being found be placed under this particular type of legislation?

Senator MALONE. Is it not a fact that the areas in States like my own State of Nevada are practically all isolated when you get away from the small towns and the population centers?

Mr. PALMER. That is correct.

Senator MALONE. So that what we have been trying to do over the years is to induce people to go out there and do a little digging and to acquire property; is that not right?

Mr. PALMER. That is right.

Senator MALONE. What happens when a man locates a mining claim and he has a valid location filed, keeps up his assessment work; is he subject to the county assessor waiting on him just the same as any other property?

Mr. PALMER. That is correct. In Colorado and in your State they have the right to assess and in Utah they have the right to assess unpatented mining property.

Senator MALONE. That is up to the State?

Mr. PALMER. That is up to the State.

Senator MALONE. The Federal Government does not interfere with it one way or the other?

Mr. PALMER. That is correct.

Senator MALONE. Now, the Federal Government comes in and if there is an income from the sale of this ore or the sale of the property, then the United States Government gets its share according to the law?

Mr. PALMER. That is right.

Senator MALONE. I think you covered this particular question that I had in mind but are you familiar with the fact that prominent officials in this Government, very prominent I might say, are making continual speeches up until last summer that of course we had to defend Belgium in order to get uranium from the Belgian Congo because there was no adequate amount here and that it was just assumed up until very recently that there was no adequate amount of uranium in sight; is that a fact?

Mr. PALMER. That is correct.

I call your attention to the often-cited illustration of a meeting in the Blair House, at which time it was represented that unless certain secrets were disclosed with respect to the manufacture of atomic energy, that our foreign supply of uranium would be curtailed or cut off.

Senator ANDERSON. I have no knowledge of such a meeting.

Mr. PALMER. It was attended by the two Senators from Colorado—Senators Millikin and Johnson. I understand the decision was made that the information would not be disclosed and that the program of the Atomic Energy Commission was adopted which encouraged the production of uranium in the United States and we have found substantial deposits here which many feel would make us self-sufficient in case of an emergency.

Senator ANDERSON. When was that meeting?

Mr. PALMER. Approximately 1948, I would say.

Senator MALONE. There was much publicity at the time, not of the meeting, Mr. Chairman, but evidently the result of this meeting that unless publicity throughout the country fostered by international mining publishers, and I could name a good many of the people that would make us break down and cry, that unless we disclosed these secrets they would do the same thing in uranium that they had recently done in monazite sands in India.

They thought we did not have monazite sands so in peacetime India curtailed the shipment of monazite sands; not that they needed the money but they thought they could blackmail us into another agreement. That is exactly what was attempted under this uranium setup.

Now, this committee rendered a report last August with which the chairman of this committee is fully familiar and assisted in the work, and since that time there have been no such speeches made by any prominent Government official that you had to go across an ocean to get such material. I do not believe there will be any more made because it would be very embarrassing.

I want to call attention to the fact that this publicity is carried forward for another objective, in the opinion of the Senator from Nevada, to carry out something that they want to do, having an objective, and then they use this shortage of this material as a weapon.

Many people want to buy all of the materials from the foreign nations and I guess they are going to accomplish that unless the people rise up and destroy the foundation for it, which I feel they will do in time.

One more question in that regard. The people that have really discovered these minerals and are profiting by it, are they always the experts and engineers that have found them? What kind of people are they?

Mr. PALMER. No; I have stated that most of the men who have been the most successful are the inexperienced prospectors.

One man from Minneapolis found one of the most substantial deposits.

Senator MALONE. Do you think the experts in the Forest Service or the experts in the Bureau of Land Management would be qualified to determine whether a man had a valid location or not?

Mr. PALMER. Well, there has to be some reasonable gage, I will admit that. I will say that even in the opinion of Mr. Woosley, the field examiners have been incorrect in some of their examinations.

Senator ANDERSON. That, however, could likewise be said about some of the people who have made examinations of oil properties?

Mr. PALMER. Correct.

Senator ANDERSON. They said, "You have a good prospect here and a bad prospect there." You develop the bad prospect and get oil and the good prospect is a dud.

Senator MALONE. You are right, Mr. Chairman. For 50 years the geologists said there was no oil in a volcanic area. In Nevada we forgot it, they were experts.

I was in school when they first made that statement. Finally, in Utah some of these wildcatters got off the reservation and spent money in an area where the Bureau of Land Management would not let them locate in the first place and they hit an oil well.

We now have an oil well in the middle of Nevada and the geologists say that it is likely it will spread over a considerable area.

We are all familiar, of course, with the great worry of the Department of the Interior over a couple of decades that we were running out of oil and had to save it. Now it is running out of our ears and we do not

know what to do with it, but due to the wildcatters, not the people who come out of Chicago and New York and get these nice jobs down here out of school and immediately become experts.

What is the history of mining? You have been familiar with it, Mr. Palmer, over a long period of years. When these fellows who do not know anything about it go out there and finally get it, 1 out of 5,000 of them because the rest die broke, what becomes of this prospect? Does he carry it through, or does someone with plenty of money set him up as part owner to go on and develop it, or how is it done?

Mr. PALMER. The trend on the plateau at the present time is consolidation with substantial financial interests in the further exploration and development of the properties. I think that has been the history of the mining industry, generally speaking, that many the small miner under trends in world events has been pushed out of business and some more substantial people have been able to take over properties and operate them.

I think that one of the tragedies throughout the United States is the slaughter of the small miners.

In your State of Nevada, I used to attend large meetings where there would be thousands of people who were in the mining business.

In Colorado we used to have thousands of small miners before the uranium boom.

In New Mexico, when I used to address the New Mexico Mining Association, it was composed of a large number of small operators.

I would say that conditions are quite changed today.

Senator MALONE. To what do you attribute the decrease in the number of enthusiastic small prospectors, miners?

Mr. PALMER. Well, there are quite a few factors. I would say that had this committee passed a piece of legislation in which our groups was very much interested, or had the Congress passed that legislation, I think much of the difficulties which exist would have been alleviated.

I think that it has been well established that with cheap transportation from abroad by boat, with low-cost labor abroad, with the international trend that seems to prevail, that it is possible to import materials into the United States at a much lower cost than they can be produced in the United States under American standards of living.

Senator ANDERSON. Could I break in to ask you if you had reference to S. 2105 that we struggled with in this committee as one of the things that might have helped?

Mr. PALMER. I want the chairman to know that the mining people throughout the Rocky Mountain region are still deeply grateful to the chairman and the other members of the committee for the great battle you put up in behalf of that legislation.

Senator ANDERSON. We tried hard. Senator MALONE and I went down together on each one of those rounds.

Senator MALONE. I want to follow just a little further.

Is the fact that we have put our miners in direct competition with these low-wage countries in the matter of the production of these minerals, has that had anything to do with the lack of young people going into this business?

Mr. PALMER. It has made the mining business, up until the incentives which were offered for uranium, very unattractive, and I think that in the event of an emergency in the United States, we are going to find a definite shortage of experienced miners.

Senator MALONE. This uranium incentive, that is a fixed price to 1962?

Mr. PALMER. Right.

Senator MALONE. I predict that after 1962, you will either have to extend the special

price or guarantee for a substantial length of time or you will have to have a tariff on uranium to stay in business.

Is it not a fact for as long as I remember, which is quite a considerable length of time, that most of these prospectors and miners that are out there without capital, their chief hope is to discover something of a nature that an engineer that represents capital will come down and look at it?

Is that not the common talk which has been going around for 30 or 40 years?

Mr. PALMER. Well, I think that is correct, Senator.

Senator MALONE. Then the hope is that he will recommend that one of his clients spend a few thousand dollars to go deeper to find out whether he has anything; is that right?

Mr. PALMER. We find that \$10,000 for developing a mining claim today is insignificant as compared with a few years ago.

Senator MALONE. Well, that is true, but as long as these people can make money with discovery, if they made a lead discovery or tungsten discovery, generally a prospector had a pretty good idea how rich it had to be to interest anyone but as long as the condition prevailed that when he discovered a deposit of a certain value per ton, they knew they would operate; would they not?

Mr. PALMER. Yes.

Senator MALONE. What is the reason they are not operating there now, that if they make the discovery they still cannot make any money?

Mr. PALMER. That is correct.

Senator MALONE. I think, Mr. Palmer, you have made a great contribution to the testimony. You are the only one, so far, with any mining experience to appear before the committee.

I say again, Mr. Chairman, that I would like very much that the importance of this legislation I have noticed over a period of years that it is not the legislation that you do not pass that hurts the country. If we could have time at the end of this session to hold hearings out through the mining country and get some evidence from people who perhaps cannot afford to come back here on their own and do not represent an association, and do not represent a Government department on an expense account, I believe this committee would be in a much better position to pass on a modification of the mining law.

I wanted to ask once more the question if you would have any particular objection to this act if it were confined to the forest reservation?

Mr. PALMER. That is the resolution of our association, that they would support the bill with that reservation.

Senator MALONE. One more. Does your association, your members, or any association that you know about, have they been flooded with information for a considerable time that they would either take some legislation like this or you would get a more restrictive act?

Mr. PALMER. Yes, I think that is the general sentiment; that was the information which has been passed on and is the explanation which has been given as to why some of the organizations which have felt that strict enforcement of the present law would answer the problem have succumbed and are endorsing this proposal.

Senator ANDERSON. Mr. Palmer, you mean in New Mexico? Have you talked in New Mexico to any miner who has that impression?

I have letters without end from down there and not one has told me that.

Mr. PALMER. That is correct.

Senator ANDERSON. Did Joe Taylor tell you that?

Mr. PALMER. No; Joe Taylor did not.

Senator ANDERSON. Can you find me one that did that I do know?

Mr. PALMER. I have a very high regard for Joe Taylor and I respect his judgment very highly.

Senator ANDERSON. You may.

Mr. PALMER. I think that it is a mistake for mining executives in eastern mining offices to make decisions on legislation as important to the average life of the average miner as this legislation is without consulting with the fellows who day after day are confronted with the problem of making valid locations.

I know there is more understanding in the mind of an executive than in the mind of the average miner. I am fully cognizant of the fact that there are pressures here which must be taken into consideration by the Congress, but I would say without any fear of contradiction that if hearings were held on this proposed legislation in most of the mining camps of the West, that there would be very strong opposition to its passage.

There has been strong opposition expressed to me not only by miners but by very, very prominent geologists and mining engineers whose names I would prefer not to mention. A certain amount of leadership is required here and a certain amount of understanding which I think is being exercised by the leaders of the mining congress and others.

If this is to set a precedent, however, then I feel that in other matters, when additional legislation is introduced it would be very much worthwhile to hold hearings in the areas where the miners themselves can attend and express their feelings.

Senator MALONE. Mr. Chairman, this would be embarrassing to some people, but it is not to me. I know all of these people and some of these larger organizations referred to by the secretary of the Colorado Mining Association. I have the highest regard for them. I think they are very efficiently run, they make money, they are wonderful people, and maybe if I were president of one of the companies I would do just what they are doing, because they are working for their stockholders. I want to say to you that legislation that does not touch those people, or if it does touch them it helps them, because any time you can make a thing more technical, make location a little harder to comply with, make it more technical, you help a going concern, large company, at the expense of the smaller fellow, because this thing, this evolution, is going on all the time.

When a man that did not know anything about uranium at all went out and stuck a stake down, and there are probably 5,000 of them out there that have done the same thing but have not made any money, other than this one man who came out with \$10 million. Now, he is not too close from now on to the fellow like he was when he started because he is now doing the best he can to promote the whole setup, but he is not down there with them every day.

People that come in with the money, that an engineer represents, people that will spend \$2,000, \$5,000, \$10,000, \$50,000 to develop a prospect that a prospector has found, they are not prospectors, and it is making it easier for them to get this from the prospector because he does not have the money, for example, to do what someone testified to yesterday, that the large operators, they have a man on each claim out there. No prospector can do that. When he makes a new discovery he locates 7 or 8 mining claims around it, and you correct me if I am wrong, Mr. Palmer, you are an attorney long experienced in this business.

You can do your assessment work on one spot if it is reasonable to suppose that you can develop the whole group.

Mr. PALMER. If it tends to improve the whole group.

Senator MALONE. In other words, you do your best to locate along the line of the vein or discovery. Maybe you are right, and maybe

you are wrong, but you can do it if you have 5 claims, you can do \$500 worth of work on one place if you are reasonably sure that it will develop the whole thing?

Mr. PALMER. That is right.

Senator MALONE. Those things are well established in court, as Mr. Palmer has said.

I want to say to you, Mr. Chairman, one more time. I know a lot of these people. I grew up with them. I surveyed their mining claims in their locations and in their further patents, many of them. A lot of those fellows, if they have a tobacco can in their pocket and a piece of note paper to make the location, that is a secondary consideration.

He looks around for that after he makes his discovery. He gets to his county seat and that is as far as he is going to go, or he sends somebody; that location is made. If he had to file with somebody else or if he has to answer a newspaper advertisement to come in and defend himself, he is simply not going to do it in 99 percent of the cases.

Senator ANDERSON. And of course he does not have to.

Senator MALONE. He does not have to if he does not lose some stuff under this bill.

Senator ANDERSON. Not a thing in the world.

Senator MALONE. In other words, he will lose the timber.

Senator ANDERSON. Not if he needs it for mining.

Senator MALONE. If he does not establish it at that time, he has lost it.

Senator ANDERSON. No; he does not lose it.

Senator MALONE. All right, I will read it to you again. It says that after this notice, 9 consecutive weeks of having it published, that if this man does not come in within 150 days from the date of the first publication of such notice, "which date shall be specified in such notice, a verified statement which shall set forth, as to such unpatented mining claim," and then you have 1, 2, 3, 4, 5. I have already read them into the record.

Senator ANDERSON. Yes.

Senator MALONE. If he does not do that, he is subject to these other provisions.

Senator ANDERSON. Those provisions are that he loses his claim to the surface except what is needed for mining.

Senator MALONE. That is right, but he does not know what is needed for mining until several years have passed.

Senator ANDERSON. He does not have to. This preserves him. This preserves all of his rights.

Senator MALONE. In the meantime, they can take the timber off.

Senator ANDERSON. Exactly, and that is what Senator Millikin has suggested, and that is what we are going to try to correct.

Senator MALONE. I should say that there are several things we need to correct, and one of them is to confine it where the damage is being done.

I have no quarrel with the Forest Service, because we have 5 million acres that I hope to get reclassified sometime to put it out of the Forest Service. We will come to that someday here, because it ought to be in the public-land classification and should not be in the Forest Service at all; that is something we can take up later, because if it is a question then of damage done to timber, and it is more valuable for a forest reserve than anything else, and I hear that statement made all the time that, regardless of the mining location, if it is more valuable for something else, a miner should not be there.

I would go along with that, but, Mr. Chairman, I am very reluctant to go along with a bill that digs these fellows out of the canyons, and they have to come in and make a showing and register with an outfit, with a Federal registration, that they are simply, many of them, not only incapable of making without an attorney which they could not

hire, but they do not have the money to come in and do it.

Mr. Palmer, I am very appreciative that you have come before this committee. I think you have assisted in establishing a good record.

Senator ANDERSON. I am, too.

Mr. PALMER. Thank you.

EXPERIENCED MINING EXPERTS EXPRESS VIEWS ON BILL

Mr. MALONE. Mr. President, I have in my hand a communication from three men who are in the mining business in Reno, Nev.

One of them is Mr. H. B. Chessher, a broker.

The second man is Mr. W. E. (Bill) Sirbeck, an alltime prospector. He does not claim to be an engineer, but I will take his judgment on a piece of ground long before I would take the opinions of the gentlemen who testified before the committee in connection with the pending bill.

The third is Joe E. Riley, who has produced probably more tungsten in Nevada than any other "small" miner anywhere in the West. He did not do it in Washington, D. C., and he did not do it by arguing with a bureau official who had never seen a mine or had never seen any ground that carried any minerals, because such an official would probably have told Joe, who has had only 30 years of experience in mining, that no "prudent man would dig" on that ground.

No prudent man would have dug on much of the ground that Mr. Riley dug on during the last 30 years. He is a well-to-do mining man today, and he made it all in mining because he was not a prudent man.

S. 1713 SHARPLY CRITICIZED

I hold in my hand a memorandum which I received from these three men. It is signed by them. They are men who are listened to in the mining fraternity. One of them is a broker. One is a prospector and miner. The third is a real down-to-earth miner. He is Mr. Riley.

TEXT OF MEMORANDUM

They addressed their memorandum to the senior Senator from Nevada, and in it they say:

It is our opinion that S. 1713, the companion bill to H. R. 5561, is too broad in its powers under sections 1, 4, and 5. Please note that under section 1, the Secretary of the Interior may dispose, under a lease, of any body of sand, stone, gravel, clay, and also timber and forest products, even including brush products, such as yucca, manzanita, mesquite, and cactus. The aforesaid materials and vegetation, in varying proportions, constitute the main part and parcel of any valuable mining claim. How could anyone expect a small mining claim owner to operate his valuable mining claim, and to make improvements thereon, if the Secretary is vested with the power to issue a lease upon the sandstone, gravel, and clay adjoining, or constituting a part of, the claim owner's ore body?

The bill in its present form, if enacted into law, will permit any large mining corporation, if it elects, to conspire to acquire the mining property of a small mining claim owner, to hire any applicant, so inclined, to apply for and obtain, as the henchman for the large mining corporation, a lease upon the sand, stone, gravel, clay, or any other products named in section 1 that might be

found on the small mineowner's valuable mining claim, and in such a manner the effort to mine by the small mineowner could be seriously hampered and interfered with.

He could be forced to engage in endless litigation, thereby exhausting his limited resources until forced to sell his valuable mining claim directly or indirectly to the large mining corporation at the latter's price.

We believe that the entire text of said bill is designed and made to act as a vehicle for any large mining corporation to ride roughshod over the small mineowner, all to be done with the aid and assistance of the Secretary, who, if S. 1713 becomes law under its present text, might innocently act as an aid and accomplice to the scheming designs and fraud that might be inflicted upon the small mineowner. No wonder the large mining corporations, as a general rule, are in favor of the passage of S. 1713.

SMELTER SPOKESMAN PRESENTS CONTRASTING VIEW

Mr. President, I come back to the testimony of Mr. Raymond D. Holbrook, the attorney for the United States Smelting, Refining, & Mining Co., and chairman of the public lands committee of the American Mining Congress.

He speaks for the public lands committee of the American Mining Congress, but his real job, and for which he gets paid, is with a large smelting company, which does not prospect in the same way that prospecting is done by the small prospector I have described. They take them over after they have been discovered and developed to the point that their engineers judge there is a good chance to make a mine.

Mr. President, I was in the engineering business for 30 years. Engineers do not discover mines; they turn them down; they break the hearts of prospectors. But when they do see something they want as a result of the work of thousands of prospectors tramping the hills under the 1872 Mining Act, then, according to those authorities in the mining business they could enlist the Federal authorities in acquiring such ground—they say it is water on the wheel of the large mining companies.

SENATOR COMMENDS MINING COMPANIES IN NEVADA

Do not misunderstand me, Mr. President. I am for the large mining companies. There are some of the best and largest mining companies in the whole history of the United States situated in Nevada and Utah. They are all well-run companies. But sometimes they outsmart themselves. Sometimes we have to protect them from themselves. If we get these little fellows out of the hills, which can be done with an act like this, we will not continue to discover new prospects at the rate needed.

Mr. President, the man about whom I have spoken is Raymond B. Holbrook, attorney, United States Mining and Smelting Co., Salt Lake City. He is chairman of the Public Lands Committee of the American Mining Congress and is testifying as such, but his pay comes from the mining company. I think the American Mining Congress is a great organization, but they should not advocate such a radical change in the 1872 mining law without hearings in the public land mining areas.

NEVADA MINING TRIO'S MEMORANDUM CONTINUED

Continuing reading from the memorandum sent me by the three gentlemen in Nevada who are both experienced and prominent in the mining business there:

Section 4 (b) of the proposed law most certainly is viciously designed for creation of the circumstances hereinabove described. Do you believe any buyer would want to purchase a mining claim containing a valuable ore body from a small mine owner if a henchman of a large mining corporation held a lease from the Secretary of Interior upon any of the products named in section 1?

If you do, Mr. President, it shows lack of experience in this business.

Reading further from the memorandum:

The possibilities for continuous and expensive litigation are enormous and the small mine owner with a valuable ore body could be made the victim and ultimate loser at the instigation of the scheming desire of any large mining corporation.

Your attention is respectfully directed to section 5 of the proposed law. It is in effect an attempt to legislate a scheme by enactment of a retroactive law.

It contains the brazen attempt to force the small mining claim owner to hire an attorney and to spend traveling expenses and time for purpose of defending his valid title previously acquired under existing mining law. In other words, by the imposition of section 5 (b), there exists an attempt to take from the small mining claim owner the rights which the courts have repeatedly held were his, as is evidenced by a long list of mining decisions.

By enactment of the proposed law containing section 4, you will observe the bill is so written as to make all unpatented mining claims previously located subject to the stringent forfeitures set forth in section 5 (b) which thereby, under certain conditions which are adverse to the interests of the small mining claim owners, makes previously located mining claims subject to section 4, and if this is not a left-handed attempt to make the proposed law retroactive, then we must admit that we cannot read very well and that we do not understand the English language.

We fully comprehend that section 5 (b) provides that the small-mining-claim owner may prevent his rights being forfeited, and he may prohibit the automatic transition of his previously located mining claim to the application of the terms and conditions of section 4 if he wins the decision in the initial hearing to be conducted and refereed by an employee of the Department of the Interior. Do you believe the small-mining-claim owner will receive fair and equal treatment in such proceedings?

The above-described proceedings make it essential that the small-mining-claim owner shall possess the funds necessary to hire a lawyer and to pay traveling expenses and to lose the time, all being expenses necessary to defend a perfectly valid title against harsh terms and conditions imposed under section 5 (b) (c). We all know that there are thousands of small-mining-claim owners who do not have sufficient funds for purposes aforesaid. Why should any small-mining-claim owner, who has heretofore acquired a perfectly valid title under the existing mining law, be forced to stand the expense, time, and delay in defending his title in any action brought by the Secretary of the Interior in an attempt to make retroactive, against a previously located mining claim, the proposed terms of sections 4 and 5?

It is our opinion that any attempt to pass S. 1713 and H. R. 5561 should be defeated.

All anyone has to do is to read section 7, and in conjunction with the reference to section 5, you will note the subversive attempt to find a way to take advantage of the small-mining-claim owner who is unable to defend his title against vicious attempts of scheming adventurers. They endeavor to impose upon the small-mining-claim owner a series of legal difficulties and costs, which will make retroactive the stringent terms of section 4 if the small-mining-claim owner is financially unable to defend his title, is an act no Member of the United States Senate and House should be a party to.

To force the small mining claim owner to defend his title to previously located mining claims throughout a series of hearings, court trials, etc., which the Secretary of the Interior may, under section 5, be authorized to instigate against said small mining claim owner if the paid and prejudiced employee of the Department of the Interior, who will sit as a "referee" in the adjudication of the proceedings instigated under sections 4 and 5 of said proposed law, decides in favor of the Secretary of Interior in the initial hearing held under section 5 (c), is a scheme in which no Western United States Senator or United States Representative should participate or permit by voting for passage of said bill.

The small mining claim owner, if he elects to fight for his rights, could be kept in litigation for many years, all because the Secretary of the Interior may elect to take away from the small mining claim owner, under sections 4 and 5 the vested rights he has previously acquired under the present mining laws. Not only is the proposed bill an attempt to legislate retroactively, but it is also an attempt to confiscate the property of the small mining claim owner.

It is our opinion that the present mining laws contain sufficient protection to the people of the United States of America. The present law prohibits acquisition and holding of lands under which there is no valid discovery. Are we to believe that this great and magnificent branch of our Government, the Department of Interior, has to instigate and lobby for a bill designed to deprive the small mining claim owner of his rights in order to defeat abortive efforts of certain would-be mining claim locators who attempt without discovery of mineral in place, to acquire and hold parts of the public domain under alleged mining locations?

An alleged fraudulent attempt to unlawfully appropriate parts of the public domain by people who have no intention of mining, should not be the basis for imposing upon the small-mining-claim owner the stringent terms imposed by sections 4 and 5 of said S. 1713. The Department of Interior has plenty of ammunition to correct all abuses of the present mining laws, because the said laws contain sufficient provisions and penalties for removing any fraudulent locators from the public domain. Is it possible that the Department of Interior wants to take more than that which, by law, it is entitled to take?

We believe you should strive diligently to defeat the passage of S. 1713 and H. R. 5561, and we respectfully petition the exercise of your efforts towards that end.

Respectfully submitted.

H. B. CHESSHER.
W. E. SIRBECK.
JOE E. RILEY.

RENO, NEV.

HEARINGS INADEQUATE ON BILL AFFECTING ALL
PUBLIC LANDS IN UNITED STATES

Mr. President, in closing, I do not believe that a bill of this magnitude should be enacted, affecting as it does all the public lands of the United States, practically all of which are located in the 11 Western States, most of them west of the Rocky Mountains, without adequate

hearings in the areas affected, and allowing the real prospectors and miners to help work it out.

The hearings in Washington are all right to start with and to end with, but certainly no legislation of this type should be enacted until the areas and the men affected have been heard.

FOREST RESERVE "REMEDY" BEING APPLIED AND
SAGEBRUSH JUNIPER

Furthermore, if, as is believed by some persons, attempts have been made to gain control of some forest preserve land by locating mining claims thereon—I do not believe that is possible, because when one makes such a location, he does so subject to all the laws of the land—but if the testimony is to be believed, the chief trouble is to be found in the administration of the forest preserves, and not on the public lands, such as those which are located in my State of Nevada, where there are 5 million acres of forest preserve areas, but a very small acreage of real forests.

I have inspected every square mile in my State, both as State engineer and in my private engineering business. If there are more than 100,000 acres of real merchantable timber in Nevada included in the nearly 5,000,000 acres of forest preserves, I simply have not seen it. The 4,900,000 acres of forest preserve is comprised of sagebrush and of juniper, which ranchers cut for posts, when they can persuade forest officials that it is the right use to put the juniper trees on the public domain.

REAL PARTIES IN INTEREST DESERVE FULL, FAIR
HEARING

Secondly, no such far-reaching legislation as embodied in S. 1713 should be passed until those who are vitally affected by it can be heard. The entire 11 Western public land States are affected.

Mr. President, I ask the Senate to defeat the bill.

PROPOSED TARIFF COMMISSION STUDY OF EFFECT ON UNITED STATES TEXTILE INDUSTRY OF RECENT GATT AGREEMENTS

During the delivery of Mr. MALONE's remarks,

Mr. THURMOND. Mr. President, will the Senator from Nevada yield briefly to me?

Mr. MALONE. I am glad to yield to the distinguished Senator from North Carolina.

Mr. THURMOND. Let me point out that I have the honor of being a Senator from the State of South Carolina.

Mr. MALONE. I beg the Senator's pardon; I should have said South Carolina.

Mr. THURMOND. However, either State is a mighty good one.

I thank the Senator from Nevada for yielding to me.

Mr. President, I rise to make a brief statement concerning a resolution which I intend to submit in the Senate, and to inform the Senate of my reasons for proposing such a resolution.

I am deeply concerned as to the likely effects of the recent agreements entered

into between this country and other nations on the American Textile Industry and its employees. My information from a reliable source is that the tariff reductions agreed to in the GATT Conference in Geneva will run as high as 27 to 48 percent on the basic products of the textile industry.

As I have pointed out previously on the floor of the Senate, the textile industry of this Nation employs more than one million persons, approximately 133 thousand in South Carolina alone. Related industries in the Nation employ another million persons. In many sections of the Southeast and in New England, the whole economy is directly tied to the healthy operation of the textile industry.

Also, the textile industry is closely allied with production of items essential to national defense.

For these reasons, I am fearful that the agreements made in Geneva at the GATT Conference pose a threat of disaster to the textile industry and its million employees.

Although the agreements entered into were under provisions of the Trade Agreements Extension Act of 1951, and do not go into effect until September 10 of this year, I do not believe we should wait until it is too late to protect the people of our great textile industry.

Under statutory authority, the Tariff Commission may by resolution of the Senate be directed to make an investigation of the effect of the agreements entered into at Geneva. I believe it essential that such a study be started immediately on the effective date of the agreements, because of the severity of the tariff reductions entered into at the GATT Conference. In spite of the fact that, under provisions of H. R. 1, which I advocated and supported, no more reductions can be made on the items to which I refer, I now advocate prevention, instead of attempted remedy, of the damage which I fear will be done the textile industry.

The escape clause of the Trade Agreements Act provides that the Tariff Commission shall report if "actual or relative" imports of competitive products "cause or threaten serious injury to the domestic industry producing like or directly competitive products." Under the law, in determining whether cause or threat of injury has arisen, the Tariff Commission must take into consideration a downward trend of production, employment, prices, profits, or wages in the industry or a decline in sales; an increase in imports, either actual or relative to domestic production; a higher or growing inventory; or a decline in the proportion of a domestic market supplied by domestic producers.

Upon receipt of the Tariff Commission report, the President of the United States may make such adjustments in the rates of duty, impose such quotas, or make such other modifications as are found and reported by the Commission to be necessary to prevent or remedy serious injury to the respective domestic industry.

Mr. President, I believe the resolution which I intend to submit should be approved by the Senate as a preventive

measure against disaster to a vital industry of the Nation. If the Tariff Commission should determine that no injury has been caused or threatened by the reduction of tariffs agreed to at Geneva, then no harm will have been done by the resolution. But if serious damage or the threat of serious damage is found by the Commission, time will have been saved by the adoption of the resolution which I shall submit. That time saved could well mean the difference between continued operation and curtailment of the operation of many of our textile plants.

Mr. President, I hope every Member of the Senate will give most serious consideration to this matter, and will support the resolution when it is submitted.

I ask unanimous consent to have the text of the proposed resolution printed at this point in the *RECORD*, as a part of my remarks; and I desire to state that all other Senators are invited to join in sponsoring the resolution.

There being no objection, the text of the resolution proposed to be submitted by Mr. THURMOND was ordered to be printed in the *RECORD*, as follows:

Whereas the tariff reductions on basic textile products agreed to at the recent negotiations in Geneva amount to as much as 27 to 48 percent of the present tariff rates; and

Whereas more than a million persons are employed in the textile industry of the United States and more than another million are employed in allied industries; and

Whereas in many sections of the Nation the entire economy of a community is tied directly to the healthy operation of the textile industry; and

Whereas the textile industry of this Nation is vital to defense production; and

Whereas the tariff reduction agreements entered into with other nations are scheduled to become effective September 10, 1955, and possibly will damage or pose the threat of damage to the textile industry of the United States; Now, therefore, be it

Resolved, That the United States Tariff Commission is directed to make an investigation pursuant to section 7 of the Trade Agreements Extension Act of 1951, as amended, to determine whether any textile product is, as a result, in whole or in part, of the duty or other customs treatment reflecting concessions granted by the United States under the agreement for the accession of Japan to the General Agreement on Tariffs and Trade signed at Geneva on June 8, 1955, being imported into the United States in such increased quantities (either actual or relative) as to cause or threaten serious injury to the domestic textile industry producing like or directly competitive products. The investigation required by this resolution shall be commenced with respect to any particular product on the date on which the concessions granted by the United States by the Geneva agreement become effective with respect to such product.

JAPAN AND GATT—TEXTILES AND THINGS

Mr. MALONE. Mr. President, will the Senator from South Carolina yield for a question?

Mr. THURMOND. I yield.

JAPAN TAKEN INTO GATT AS TRADE ACT EXTENDED

Mr. MALONE. Is the Senator from South Carolina aware that while he was voting for a 3-year extension of the 1934 Trade Agreements Act, the Geneva General Agreement on Tariffs and Trade was including Japan as a member of GATT with all rights and privileges, and

at that moment was adjusting such duties or tariffs downward on textiles?

Mr. THURMOND. We understand that negotiations were under way at that time. Because we were fearful of the situation with regard to the textile industry, 16 other Senators joined me in submitting amendments which I presented to the Senate Finance Committee, and which were adopted.

Mr. MALONE. Yes.

Mr. THURMOND. The disaster we fear would not develop under the new law, which I voted for this year; I refer to the law as it was amended this year by the amendments reported by the Finance Committee. Instead, the disaster we fear would develop under the old law.

THE TEXTILE INDUSTRY MORTALLY INJURED

Mr. MALONE. Mr. President, if the Senator from South Carolina will yield further to me, let me ask him whether or not he understands that the amendments did not check in any way the transfer of constitutional responsibility of Congress for the regulation of our national economy and foreign trade to the President; and that the President has the last word now as he had under the original act of 1934, regardless of the amendments the Senator sponsored; and that the President can lower the duties or tariffs to the extent allowed by the law, without consulting Congress and that Congress has nothing to do with it.

Is he aware that through admitting Japan into GATT, that the President can finish the job on the textile industry, large sectors which are already mortally injured—and that this includes the Senator's great State of South Carolina.

Mr. THURMOND. The old law contained a provision under which if there were a disaster, or threatened disaster, to an industry, either body, the Senate or the House, could adopt a resolution asking the Tariff Commission to investigate the subject. That is all I am asking here. I am asking that there be adopted a resolution requesting the Tariff Commission to investigate the tremendous reduction in tariffs on textile products at the recent GATT Conference.

Mr. MALONE. Then, under the law, what will happen?

Mr. THURMOND. Under the old law the President could take action if the Tariff Commission made a recommendation to him, including the finding that there was a disaster or threatened disaster to any particular industry.

Mr. MALONE. Does the distinguished Senator understand that the President has taken only two affirmative actions as the result of numerous recommendations for relief by the Tariff Commission, which included a finding that harm was being done to an industry since 1934?

Mr. THURMOND. I am not familiar with the number of occasions on which he has acted.

SOUTHERN TEXTILE INDUSTRY ALREADY STRICKEN

Mr. MALONE. If the Senator will further yield, the harm has already been done to the textile industry in South Carolina. It cannot possibly survive the

all-out attack from 19-cent-per-hour labor. The damage has already occurred. The industry in South Carolina is like the man who fought with an adversary who wielded a razor. When his adversary slashed at him he stepped back and said, "Never touched me." His antagonist said, "Just try to move your head." [Laughter.] All the industry in South Carolina has to do is to try to move its head. Then it will find out what has happened.

Mr. THURMOND. Under the law which was enacted this year, I feared there would be serious injury, and that is the reason I submitted certain amendments to the Senate Committee on Finance, in which I was joined by other Senators, to protect our textile industry.

Mr. MALONE. The Senator did the best he could and supported the extension of the 1934 Trade Agreements Act.

Mr. THURMOND. I realize now more than ever the importance of the adoption of those amendments. I am very grateful to the Senate Finance Committee and the Senate for including them in the bill.

TRADE ACT EXTENSION IS CAUSE OF INDUSTRY'S WOES

Mr. MALONE. All we had to do was just not extend the 1934 Trade Agreements Act, not just pass anything, and the textile industry in the Senator's State would be back in business, under the 1930 Tariff Act.

Under that act, the Tariff Commission could study the situation and recommend that the adjustable duty or tariff be fixed on the basis of the differential of cost between the wage standard of living, taxes, and other costs of doing business in this country, as compared with costs in the principal competing country on each product.

What is happening to the textile industry in the South now is what happened to it in New England when it moved to the South because of lower wages than in New England. Now some foreign nation will get the business, paying less wages than your State of South Carolina. It is just as simple as that.

The difference is, of course, that we are one Nation, under one Constitution, and industry gets where the factors of labor, transportation, markets, power, and so forth add up the lowest cost of production.

MULTIPLE USE OF SURFACE OF PUBLIC LANDS

The Senate resumed the consideration of the bill (S. 1713) to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

Mr. ANDERSON. Mr. President, the bill, S. 1713, to provide for multiple surface uses of the public domain, has been very carefully considered by the Senate Committee on Interior and Insular Affairs. I had the honor of introducing the measure on behalf of the senior Senator from Wyoming [Mr. BARRETT], the junior Senator from Utah [Mr. BENNETT], the senior Senator from Utah [Mr. WATKINS], and the senior Senator from Ver-

mont [Mr. AIKEN], as well as on my own behalf.

The proposed legislation was drafted and introduced only after very extensive conferences with the executive agencies concerned, and with spokesmen for the industries that would be directly affected, namely, mining, lumbering, and stockgrowing industries, and with conservationists' and sportsmen's groups. At the very outset of the discussion I wish to pay tribute to the cooperation of all of these groups with me and the other sponsors of the bill and the members of the committee staff in our efforts to draft a bill that would meet a situation that is rapidly developing into a national emergency, and yet at the same time not interfere with existing rights or with bona fide mining activities, either now or in the future. I feel that our efforts have been successful in the main, and although the committee has made several amendments to the bill, all of them are of a perfecting or clarifying nature.

Exhaustive hearings on the measure were conducted by the full Committee on Interior and Insular Affairs, and all of its members had full opportunity to participate actively in questioning witnesses and obtaining complete information. The size of the hearings indicate that this was done. At the hearings spokesmen for all of the groups which would be affected by the measure were heard and cross-examined, as were officials representing the executive agencies concerned with administration. In addition, literally hundreds of letters and telegrams were received by members of the committee, and all were given careful attention.

Mr. President, S. 1713 would achieve its purpose to permit multiple, and more intensive, use of the resources of our public lands and forest lands by the following means:

First. Provide that deposits of common varieties of sand, building stone, gravel, pumice, pumicite, and cinders on the public lands, where they are found in widespread abundance, shall be disposed of under the Materials Act of 1947 rather than under the mining law of 1872.

Second. Amend the Materials Act to give to the Secretary of Agriculture the same authority with respect to those common, widespread materials located on lands under his jurisdiction as that which the Secretary of the Interior has with respect to lands under the jurisdiction of the Secretary of Interior.

Third. Amend the general mining law to prohibit the use of any hereafter located unpatented mining claim for any purpose other than prospecting, mining, processing, and related activities for development of mineral resources.

Fourth. Establish, with respect to mining claims located prior to enactment of S. 1713, particularly as to invalid, abandoned, dormant, or unidentifiable claims, a procedure in the nature of a quiet-title action, whereby the United States could expeditiously resolve uncertainties as to surface rights on such locations.

Mr. President, in view of some of the statements which have been and may be

made concerning this measure, I emphasize that the holder of any claim in existence at the time of enactment of this legislation could retain all present rights to any and all surface resources on the claim by establishing, under prescribed procedures, his need for such surface resources for development of the claim's mineral resources. On a claim located after enactment, the locator would have full right to all surface resources of the claim which may be needed for carrying on mining activities.

His rights to subsurface resources remain unchanged on claims located both before and after enactment. Upon proceeding to patent, he would have full title in fee simple absolute, as heretofore, to both surface and subsurface.

Mr. President, mining is a major industry in my own State of New Mexico, as it is in Utah and Wyoming, which are represented in this body by other sponsors of S. 1713. My record as a Member of the House, as Secretary of Agriculture, and as a Member of the Senate shows conclusively that I always have tried to further the development of our mineral resources to the fullest possible extent. I have the most profound respect for the mining law of 1872, and have pride in the achievements that have been made under it.

The mining law of 1872, based as it is on private initiative and free enterprise, should and must be preserved. Senate bill 1713 does not in any way disturb the basic principles of that law.

S. 1713 specifically makes mining activity the dominant use—the "paramount" use, if I may use a word that became famous during our debate on submerged lands—on lands on which valid mining claims have been located. I call the Senate's attention to the provision in section 4 of the bill, found on page 5 beginning at line 19:

Any use of the surface of any such mining claim by the United States, its permittees or licensees, shall be such as not to endanger or materially interfere with prospecting, mining, or processing operations or uses reasonably incident thereto.

Again, subsection (c) of section 4, page 6, line 15, recognizes that a mining claimant has the first right, the first call on any and all surface resources of his claim which he needs for carrying on activities related to mining. This affirmative right to use surface resources extends to timber he needs on his mine or processing operations, to sand and gravel to build his road, to grass for his mules, and the like.

Again, in section 7 of the bill, the affirmative rights of a mining claimant are recognized and protected, as are the full and unlimited rights of a claimant who proceeds to patent. The section provides:

SEC. 7. Nothing in this act shall be construed in any manner to limit or restrict or to authorize the limitation or restriction of any existing rights of any claimant under any valid mining claim heretofore located, except as such rights may be limited or restricted as a result of a proceeding pursuant to section 5 of this act, or as a result of a waiver and relinquishment pursuant to section 6 of this act; and nothing in this act shall be construed in any manner to authorize inclusion in any patent hereafter issued

under the mining laws of the United States for any mining claim heretofore or hereafter located, of any reservation, limitation, or restriction not otherwise authorized by law.

At this point it might be well to state again that S. 1713 does not in any way interfere with, or have any bearing upon, the full and complete ownership—ownership in fee simple absolute, as the lawyers say—of a mining claimant who proceeds to patent his claim. After enactment of the bill, as at present, a patentee will own both the surface and subsurface, and all their resources—mineral, animal, and vegetable. Both the bill and the report make this fact plain and clear beyond question or doubt.

One member of the committee, the junior Senator from Oregon [Mr. NEUBERGER], did not think the bill went far enough in this respect, and filed individual views, pointing out that a patentee of a mining claim located in forest lands could still get title to 20 acres of valuable timber, with no limit to the number of such 20-acre tracts. By way of reply, I point out to the able Senator that, first, there must be affirmative proof of a bona fide mineral discovery on the claim before a patent will issue on it. In practice, the Department of the Interior sends a minerals surveyor out to the claim, and he must be satisfied, and be able to satisfy the Secretary of the Interior, that ores in commercial quantities and quality have been discovered on the claim. The claimholder must also show he has done at least \$500 worth of work on the claim.

During this time, if the claim is located on forest land with valuable standing timber on it, the executive agency administering the surface of the land will have ample opportunity to dispose of those of the surface resources that are not required for mining operation. Therefore, I believe, and the majority of the committee believes, that the danger pointed to by the junior Senator from Oregon is more apparent than real.

Mr. President, the committee report states the factual background of this legislation. The facts speak for themselves as to why it is necessary. It also explains why existing remedies are inadequate. I will not delay the Senate by repeating those facts here, but I commend those sections of the committee report to the attention of the Senate.

Also, I call the Senate's attention to the most impressive list of national organizations which have endorsed the bill.

The Committee on Interior and Insular Affairs earnestly recommends enactment of S. 1713, with the committee amendments.

The PRESIDING OFFICER (Mr. SCOTT in the chair). The amendments of the committee will be stated.

The amendments of the Committee on Interior and Insular Affairs were on page 1, line 7, after the word "to", to insert "common varieties of the following: "; on page 2, at the beginning of line 4, to insert "including, for the purposes of this act, land described in the acts of August 28, 1937 (50 Stat. 874), and of June 24, 1954 (68 Stat. 270)"; in line 8, after the word "including", to insert a comma and "but not limited to, the

act of June 28, 1934 (48 Stat. 1269), as amended, and"; in line 19, after the word "municipalities", to strike out "or any person"; on page 4, line 3, after the word "except", to insert "that revenues from the lands described in the act of August 28, 1937 (50 Stat. 874), and the act of June 24, 1954 (68 Stat. 270), shall be disposed of in accordance with said acts and except"; on page 5, line 23, after the word "thereto", to insert a colon and "Provided further, That if at any time the locator requires more timber for his mining operations than is available to him from the claim after disposition of timber therefrom by the United States, he shall be entitled, free of charge, to be supplied with timber for such requirements from the nearest timber administered by the disposing agency which is ready for harvesting under the rules and regulations of that agency and which is substantially equivalent in kind and quantity to the timber estimated by the disposing agency to have been disposed of from the claim: *Provided further*, That nothing in this act shall be construed as affecting or intended to affect or in any way interfere with or modify the laws of the States which lie wholly or in part westward of the 98th meridian relating to the ownership, control, appropriation, use, and distribution of ground or surface waters within any unpatented mining claim "; on page 7, line 5, after the letter "(a)", to strike out "The Secretary of the Federal Department" and insert "The head of a Federal department or agency"; on page 17, line 8, after the word "any", to insert "reservation"; and in line 9, after the word "law", to insert "or to limit or repeal any existing authority to include any reservation, limitation, or restriction in any such patent, or to limit or restrict any use of the lands covered by any patented or unpatented mining claim by the United States, its lessees, permittees, and licensees which is otherwise authorized by law.", so as to make the bill read:

Be it enacted, etc., That section 1 of the act of July 31, 1947 (61 Stat. 681), is amended to read as follows:

"SECTION 1. The Secretary, under such rules and regulations as he may prescribe, may dispose of mineral materials (including but not limited to common varieties of the following: sand, stone, gravel, pumice, pumicite, cinders, and clay), and vegetative materials (including but not limited to yucca, manzanita, mesquite, cactus, and timber or other forest products) on public lands of the United States, including, for the purposes of this act, land described in the acts of August 28, 1937 (50 Stat. 874), and of June 24, 1954 (68 Stat. 270), if the disposal of such mineral or vegetative materials (1) is not otherwise expressly authorized by law, including, but not limited to, the act of June 28, 1934 (48 Stat. 1269), as amended, and the United States mining laws, and (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. Such materials may be disposed of only in accordance with the provisions of this act and upon the payment of adequate compensation therefor, to be determined by the Secretary: *Provided, however*, That, to the extent not otherwise authorized by law, the Secretary is authorized in his discretion to permit any Federal, State, or Territorial agency, unit or subdivision, including mu-

nicipalities, or any association or corporation not organized for profit, to take and remove, without charge, materials and resources subject to this act, for use other than for commercial or industrial purposes or resale. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the department headed by the Secretary or of a State, Territory, county, municipality, water district or other local governmental subdivision or agency, the Secretary may make disposals under this act only with the consent of such other Federal department or agency or of such State, Territory, or local governmental unit. Nothing in this act shall be construed to apply to lands in any national park, or national monument or to any Indian lands, or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians. As used in this act, the word "Secretary" means the Secretary of the Interior except that it means the Secretary of Agriculture where the lands involved are administered by him for national forest purposes or for the purposes of title III of the Bankhead-Jones Farm Tenant Act or where withdrawn for the purpose of any other function of the Department of Agriculture."

SEC. 2. That section 3 of the act of July 31, 1947 (61 Stat. 681), as amended by the act of August 31, 1950 (64 Stat. 571), is amended to read as follows:

"All moneys received from the disposal of materials under this act shall be disposed of in the same manner as moneys received from the sale of public lands, except that moneys received from the disposal of materials by the Secretary of Agriculture shall be disposed of in the same manner as other moneys received by the Department of Agriculture from the administration of the lands from which the disposal of materials is made, and except that revenues from the lands described in the act of August 28, 1937 (50 Stat. 874), and the act of June 24, 1954 (68 Stat. 270), shall be disposed of in accordance with said acts and except that moneys received from the disposal of materials from school section lands in Alaska, reserved under section 1 of the act of March 4, 1915 (38 Stat. 1214), shall be set apart as separate and permanent funds in the Territorial Treasury, as provided for income derived from said school section lands pursuant to said act."

SEC. 3. A deposit of common varieties of sand, stone, gravel, pumice, pumicite, or cinders shall not be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so as to give effective validity to any mining claim hereafter located under such mining laws: *Provided, however*, That nothing herein shall affect the validity of any mining location based upon discovery of some other mineral occurring in or in association with such a deposit. "Common varieties" as used in this act does not include deposits of such materials which are valuable because the deposit has some property giving it distinct and special value and does not include so-called "block pumice" which occurs in nature in pieces having one dimension of 2 inches or more.

SEC. 4. (a) Any mining claim hereafter located under the mining laws of the United States shall not be used, prior to issuance of patent therefor, for any purposes other than prospecting, mining, or processing operations and uses reasonably incident thereto.

(b) Rights under any mining claim hereafter located under the mining laws of the United States shall be subject, prior to issuance of patent therefor, to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof

(except mineral deposits subject to location under the mining laws of the United States). Any such mining claim shall also be subject, prior to issuance of patent therefor, to the right of the United States, its permittees, and licensees, to use so much of the surface thereof as may be necessary for such purposes or for access to adjacent land: *Provided, however*, That any use of the surface of any such mining claim by the United States, its permittees, or licensees, shall be such as not to endanger or materially interfere with prospecting, mining, or processing operations or uses reasonably incident thereto: *Provided further*, That if at any time the locator requires more timber for his mining operations than is available to him from the claim after disposition of timber therefrom by the United States, he shall be entitled, free of charge, to be supplied with timber for such requirements from the nearest timber administered by the disposing agency which is ready for harvesting under the rules and regulations of that agency and which is substantially equivalent in kind and quantity to the timber estimated by the disposing agency to have been disposed of from the claim: *Provided further*, That nothing in this act shall be construed as affecting or intended to affect or in any way interfere with or modify the laws of the States which lie wholly or in part westward of the 98th meridian relating to the ownership, control, appropriation, use, and distribution of ground or surface waters within any unpatented mining claim.

(c) Except to the extent required for the mining claimant's prospecting, mining, or processing operations and uses reasonably incident thereto, or for the construction of buildings or structures in connection therewith, or to provide clearance for such operations or uses, or to the extent authorized by the United States, no claimant of any mining claim hereafter located under the mining laws of the United States shall, prior to issuance of patent therefor, sever, remove, or use any vegetative or other surface resources thereof which are subject to management or disposition by the United States under the preceding subsection (b). Any severance or removal of timber which is permitted under the exceptions of the preceding sentence, other than severance or removal to provide clearance, shall be in accordance with sound principles of forest management.

SEC. 5. (a) The head of a Federal department or agency which has the responsibility for administering surface resources of any lands belonging to the United States may file as to such lands in the office of the Secretary of the Interior, or in such office as the Secretary of the Interior may designate, a request for publication of notice to mining claimants, for determination of surface rights, which request shall contain a description of the lands covered thereby, showing the section or sections of the public land surveys which embrace the lands covered by such request, or if such lands are unsurveyed, either the section or sections which would probably embrace such lands when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument.

The filing of such request for publication shall be accompanied by an affidavit or affidavits of a person or persons over 21 years of age setting forth that the affiant or affiants have examined the lands involved in a reasonable effort to ascertain whether any person or persons were in actual possession of or engaged in the working of such lands or any part thereof, and, if no person or persons were found to be in actual possession of or engaged in the working of said lands or any part thereof on the date of such examination, setting forth such fact, or, if any person or persons were so found to be in actual possession or engaged in such work-

ing on the date of such examination, setting forth the name and address of each such person, unless affiant shall have been unable through reasonable inquiry to obtain information as to the name and address of any such person, in which event the affidavit shall set forth fully the nature and results of such inquiry.

The filing of such request for publication shall also be accompanied by the certificate of a title or abstract company, or of a title abstractor, or of an attorney, based upon such company's abstractor's, or attorney's examination of those instruments which are shown by the tract indexes in the county office of record as affecting the lands described in said request, setting forth the name of any person disclosed by said instruments to have an interest in said lands under any unpatented mining claim heretofore located, together with the address of such person if such address is disclosed by such instruments of record. "Tract indexes" as used herein shall mean those indexes, if any, as to surveyed lands identifying instruments as affecting a particular legal subdivision of the public land surveys, and as to unsurveyed lands identifying instruments as affecting a particular probable legal subdivision according to a projected extension of the public land surveys.

Thereupon the Secretary of the Interior, at the expense of the requesting department or agency, shall cause notice to mining claimants to be published in a newspaper having general circulation in the county in which the lands involved are situate.

Such notice shall describe the lands covered by such request, as provided heretofore, and shall notify whomever it may concern that if any person claiming or asserting under, or by virtue of, any unpatented mining claim heretofore located, rights as to such lands or any part thereof, shall fail to file in the office where such request for publication was filed (which office shall be specified in such notice) and within 150 days from the date of the first publication of such notice (which date shall be specified in such notice), a verified statement which shall set forth, as to such unpatented mining claim—

- (1) the date of location;
- (2) the book and page of recordation of the notice or certificate of location;
- (3) the section or sections of the public land surveys which embrace such mining claim; or if such lands are unsurveyed, either the section or sections which would probably embrace such mining claim when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument;
- (4) whether such claimant is a locator or purchaser under such location; and
- (5) the name and address of such claimant and names and addresses so far as known to the claimant of any other person or persons claiming any interest or interests in or under such unpatented mining claim;

such failure shall be conclusively deemed (i) to constitute a waiver and relinquishment by such mining claimant of any right, title, or interest under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this act as to hereafter located unpatented mining claims, and (ii) to constitute a consent by such mining claimant that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 4 of this act as to hereafter located unpatented mining claims, and (iii) to preclude thereafter, prior to issuance of patent, any assertion by such mining claimant of any right or title to or interest in or under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this act as to hereafter located unpatented mining claims.

If such notice is published in a daily paper, it shall be published in the Wednesday issue for 9 consecutive weeks, or, if in a weekly paper, in 9 consecutive issues, or, if in a semi-weekly or triweekly paper, in the issue of the same day of each week for 9 consecutive weeks.

Within 15 days after the date of first publication of such notice, the department or agency requesting such publication (1) shall cause a copy of such notice to be personally delivered to or to be mailed by registered mail addressed to each person in possession or engaged in the working of the land whose name and address is shown by an affidavit filed as aforesaid, and to each person who may have filed, as to any lands described in said notice, a request for notices, as provided in subsection (d) of this section 5, and shall cause a copy of such notice to be mailed by registered mail to each person whose name and address is set forth in the title or abstract company's or title abstractor's or attorney's certificate filed as aforesaid, as having an interest in the lands described in said notice under any unpatented mining claim heretofore located, such notice to be directed to such person's address as set forth in such certificate; and (2) shall file in the office where said request for publication was filed an affidavit showing that copies have been so delivered or mailed.

(b) If any claimant under any unpatented mining claim heretofore located which embraces any of the lands described in any notice published in accordance with the provisions of subsection (a) of this section 5, shall fail to file a verified statement, as above provided, within 150 days from the date of the first publication of such notice, such failure shall be conclusively deemed, except as otherwise provided in subsection (e) of this section 5, (i) to constitute a waiver and relinquishment by such mining claimant of any right, title, or interest under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this act as to hereafter located unpatented mining claims, and (ii) to constitute a consent by such mining claimant that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 4 of this act as to hereafter located unpatented mining claims, and (iii) to preclude thereafter, prior to issuance of patent, any assertion by such mining claimant of any right or title to or interest in or under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this act as to hereafter located unpatented mining claims.

(c) If any verified statement shall be filed by a mining claimant as provided in subsection (a) of this section 5, then the Secretary of the Interior shall fix a time and place for a hearing to determine the validity and effectiveness of any right or title to, or interest in or under such mining claim, which the mining claimant may assert contrary to or in conflict with the limitations and restrictions specified in section 4 of this act as to hereafter located unpatented mining claims, which place of hearing shall be in the county where the lands in question or parts thereof are located, unless the mining claimant agrees otherwise. Where verified statements are filed asserting rights to an aggregate of more than 20 mining claims, any single hearing shall be limited to a maximum of 20 mining claims unless the parties affected shall otherwise stipulate and as many separate hearings shall be set as shall be necessary to comply with this provision. The procedures with respect to notice of such a hearing and the conduct thereof, and in respect to appeals shall follow the then established general procedures and rules of practice of the Department of the Interior in respect to contests or protests affecting public lands of the United States. If, pur-

suant to such a hearing the final decision rendered in the matter shall affirm the validity and effectiveness of any mining claimant's so asserted right or interest under the mining claim, then no subsequent proceedings under this section 5 of this act shall have any force or effect upon the so-affirmed right or interest of such mining claimant under such mining claim. If at any time prior to a hearing the department or agency requesting publication of notice and any person filing a verified statement pursuant to such notice shall so stipulate, then to the extent so stipulated, but only to such extent, no hearing shall be held with respect to rights asserted under that verified statement, and to the extent defined by the stipulation the rights asserted under that verified statement shall be deemed to be unaffected by that particular published notice.

(d) Any person claiming any right under or by virtue of any unpatented mining claim heretofore located and desiring to receive a copy of any notice to mining claimants which may be published as above provided in subsection (a) of this section 5, and which may affect lands embraced in such mining claim, may cause to be filed for record in the county office of record where the notice or certificate of location of such mining claim shall have been recorded, a duly acknowledged request for a copy of any such notice. Such request for copies shall set forth the name and address of the person requesting copies and shall also set forth, as to each heretofore located unpatented mining claim under which such person asserts rights—

- (1) the date of location;
- (2) the book and page of the recordation of the notice or certificate of location; and
- (3) the section or sections of the public land surveys which embrace such mining claim; or if such lands are unsurveyed, either the section or sections which would probably embrace such mining claim when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument.

Other than in respect to the requirements of subsection (a) of this section 5 as to personal delivery or mailing of copies of notices and in respect to the provisions of subsection (e) of this section 5, no such request for copies of published notices and no statement or allegation in such request and no recordation thereof shall affect title to any mining claim or to any land or be deemed to constitute constructive notice to any person that the person requesting copies has, or claims, any right, title, or interest in or under any mining claim referred to in such request.

(e) If any department or agency requesting publication shall fail to comply with the requirements of subsection (a) of this section 5 as to the personal delivery or mailing of a copy of notice to any person, the publication of such notice shall be deemed wholly ineffectual as to that person or as to the rights asserted by that person and the failure of that person to file a verified statement, as provided in such notice, shall in no manner affect, diminish, prejudice or bar any rights of that person.

SEC. 6. The owner or owners of any unpatented mining claim heretofore located may waive and relinquish all rights thereunder which are contrary to or in conflict with the limitations or restrictions specified in section 4 of this act as to hereafter located unpatented mining claims. The execution and acknowledgment of such a waiver and relinquishment by such owner or owners and the recordation thereof in the office where the notice or certificate of location of such mining claim is of record shall render such mining claim thereafter and prior to issuance of patent subject to the limitations and restrictions in section 4 of this act in all respects as if said mining claim had been located after enactment of this act, but no

such waiver or relinquishment shall be deemed in any manner to constitute any concession as to the date of priority of rights under said mining claim or as to the validity thereof.

SEC. 7. Nothing in this act shall be construed in any manner to limit or restrict or to authorize the limitation or restriction of any existing rights of any claimant under any valid mining claim heretofore located, except as such rights may be limited or restricted as a result of a proceeding pursuant to section 5 of this act, or as a result of a waiver and relinquishment pursuant to section 6 of this act; and nothing in this act shall be construed in any manner to authorize inclusion in any patent hereafter issued under the mining laws of the United States for any mining claim heretofore or hereafter located, of any reservation, limitation, or restriction not otherwise authorized by law, or to limit or repeal any existing authority to include any reservation, limitation, or restriction in any such patent, or to limit or restrict any use of the lands covered by any patented or unpatented mining claim by the United States, its lessees, permittees, and licensees which is otherwise authorized by law.

The PRESIDING OFFICER. The question is on agreeing to the amendments reported by the committee.

The amendments were agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ANDERSON. Mr. President, I move that the Senate proceed to the immediate consideration of H. R. 5891, a bill to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. ANDERSON. Mr. President, I move to strike out all after the enacting clause of H. R. 5891 and to insert in lieu thereof the provisions of S. 1713, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico.

The motion was agreed to.

The PRESIDING OFFICER. The question now is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The question now is, Shall the bill pass?

Mr. MALONE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Aiken	Bush	Daniel
Allott	Butler	Douglas
Anderson	Byrd	Duff
Barkley	Capehart	Dworshak
Barrett	Carlson	Eastland
Beall	Case, N. J.	Ellender
Bender	Case, S. Dak.	Ervin
Bennett	Chavez	Flanders
Bible	Clements	Frear
Bricker	Cotton	Fulbright
Bridges	Curtis	Gore

Green	Lehman
Hayden	Long
Hennings	Malone
Hickenlooper	Mansfield
Hill	Martin, Iowa
Holland	Martin, Pa.
Hruska	McCarthy
Humphrey	McClellan
Ives	McNamara
Jackson	Millikin
Jenner	Monroney
Johnson, Tex.	Morse
Johnston, S. C.	Mundt
Kefauver	Neely
Kerr	Neuberger
Kilgore	O'Mahoney
Knowland	Pastore
Kuchel	Payne

Potter
Purtell
Robertson
Russell
Saltonstall
Schoeppel
Scott
Smathers
Smith, Maine
Sparkman
Stennis
Symington
Thurmond
Thye
Watkins
Williams
Young

Mr. CLEMENTS. I announce that the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Washington [Mr. MAGNUSON] are absent on official business.

The Senator from Georgia [Mr. GEORGE] is unavoidably absent.

The Senator from Montana [Mr. MURRAY] is absent by leave of the Senate to attend the International Labor Organization meeting in Geneva, Switzerland.

Mr. SALTONSTALL. I announce that the Senator from Arizona [Mr. GOLDWATER], the Senator from Idaho [Mr. WELKER], and the Senator from Wisconsin [Mr. WILEY] are absent on official business.

The Senator from Illinois [Mr. DIRKSEN] is absent on official business for the Committee on Appropriations.

The Senator from North Dakota [Mr. LANGER] is absent by leave of the Senate.

The Senator from New Jersey [Mr. SMITH] is necessarily absent.

The PRESIDING OFFICER. A quorum is present.

The bill having been read the third time, the question is, Shall it pass?

Mr. MALONE. Mr. President, I wish to explain the bill for the benefit of the Senators who have entered the Chamber since the debate began.

H. R. 5891 GRANTS MORE POWER TO BUREAUCRATS

There is before the Senate a mining bill, House bill 5891, and S. 1713 which would place Washington officials, the heads of Government bureaus, in charge of prospectors and miners who have located mining claims on public lands under the 1872 Mining Act, and destroy much of their rights to hold it without undue interference from such bureau officials.

The 1872 act provided that any man, with or without capital, who made a discovery and set a stake down marking it, had 30 days to set his corners, and a certain length of time to do his assessment work.

Then, if he did \$100 worth of assessment work a year—and such a requirement could be changed at any time, if \$100 were deemed to be not enough, or too much—he could, by filing with the county recorder's office in his county affidavits to show that the assessment work had been done, hold the mining claim, just as a patented claim was held. After he had done \$500 worth of work and had a valid discovery, and a mineral surveyor, who was under \$5,000 bond, had made affidavit as to his discovery and to the \$500 worth of work, the claim could be patented when the survey was

completed and certain State and Government fees were paid.

HISTORIC ACT PROTECTED PROSPECTOR AND GOVERNMENT

The Government and the prospector were fully protected. I was a licensed mineral surveyor in two States, California and Nevada, for 25 or 30 years, in connection with my engineering business. If the affidavit of the licensed mineral surveyor proved to be wrong, he forfeited his bond and lost his license.

What is being sought is to place in the hands of the Bureau of Land Management, under the direction of persons who never understood mining, and are not required to understand it in their jobs, the authority to say that "no prudent man" would dig where a certain prospector was digging; therefore, he must abandon his claim. I say to Members of the Senate that no prudent man would dig where 98 percent of the prospectors dig because a prospector is not a prudent man and he is the man who discovers mines.

AREA HEARINGS ASKED BEFORE VOTE ON BUREAUCRATIC BILL

All I ask today, Mr. President, is that hearings be held in the mining areas—the public-land areas of this Nation—which is the 11 Western States. No such hearings were held on the pending bill.

The bill was cooked up in Washington. Eight or ten witnesses were heard. Only one had ever been even remotely connected with actual mining. An attorney for a mining company was one of the principal witnesses.

ONLY ONE ACTUAL MINING MAN HEARD ON MINING BILL

One witness, Robert S. Palmer, executive vice president of the Colorado Mining Association, is actually in the mining business and knows most of the miners of the West. He opposed the bill on the same ground the senior Senator from Nevada is opposing its passage—that no hearings have been held in the mining areas; that no small miner or prospector had had a chance to be heard.

Mr. President, any improvement of the 1872 Mining Act should be decided upon after hearings in the actual mining areas.

So, Mr. President, I move that House bill 5891 be referred to the Committee on Interior and Insular Affairs for that purpose, and I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada [Mr. MALONE].

Mr. MALONE. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada [Mr. MALONE] to refer House bill 5891 to the Committee on Interior and Insular Affairs.

The motion was rejected.

RESTRICTION OF BILL TO FOREST SERVICE LANDS SOUGHT

Mr. MALONE. Mr. President, I move that the terms of the bill be confined to the Forest Service acreage of the public land States. I do so because practically

all the evidence was to the effect that the objection to the act was that invalid locations were made within the national forests with the objective of getting possession of timber.

On the other hand, we of the mining country know that it is impossible to have an invalid location on the forest lands or any public lands if the bureaus do their work.

However, if the pending bill is bound to be put through today, I move that the terms of the bill be confined to the acreage located within the forest reserves.

The PRESIDING OFFICER. The bill is not open to amendment at this time.

Mr. ANDERSON. Mr. President, a point of order. As I understand, the bill is not open to amendment.

The PRESIDING OFFICER. It is not open to amendment.

Mr. MALONE. What is the parliamentary situation?

The PRESIDING OFFICER. The question is on the final passage of the bill. The amendment is not in order. The bill has been read the third time. It is open to amendment only by unanimous consent.

AMENDMENT PERMITTED BY UNANIMOUS CONSENT

Mr. MALONE. Mr. President, I ask unanimous consent that I be allowed to offer an amendment, because I was trying to be courteous to the proponents of the bill, and I inadvertently allowed the bill to be read the third time before I offered my amendment. I ask unanimous consent that I be allowed to offer the amendment.

The PRESIDING OFFICER. Without objection, the votes by which the amendment was ordered to be engrossed and the bill was read the third time are reconsidered, and the Senator from Nevada may offer his amendment.

Mr. MALONE. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nevada.

Mr. MALONE. I proposed the amendment when I thought the bill was open for amendment. I propose in the amendment that the area affected by the bill shall be confined to the forest reserves.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Nevada.

Mr. ANDERSON. Mr. President, I rise merely to request that the Senate reject the amendment. It is impossible to segregate at this time the forest lands from the rest of the lands. This proposal was presented to the committee, and it was voted down in the committee. It will be impossible to segregate the sections of the bill at this time. I ask that the amendment be rejected.

EXPLANATION ASKED

Mr. MALONE. Mr. President, I should like to have the Senator from New Mexico explain to the Senator from Nevada how it is impossible to determine the acreage to which the bill would be con-

fined under my amendment. May I ask for an explanation?

Mr. ANDERSON. It is impossible to segregate the sections quickly under an amendment like this. The bill is an inclusive bill, and the Senator's motion is that we strike out everything in the bill except the forest lands. I know of no easy way of doing it. That is why I hope the amendment will be voted down.

SOLE QUESTION IS WHAT ACTION SENATE WANTS TO TAKE

Mr. MALONE. Mr. President, it is not a question of whether it is easy to do it or not. It is a question of whether the terms of the bill should be confined to the forest reserves.

Mr. BARRETT. Mr. President, I am opposed to the Senator's amendment. The purpose of his amendment is to make the bill effective only as to lands in the forest reserves and leave the public-domain lands in their present status. We are having a rush of uranium mining claim-filings in our State at this time. We need this bill to protect those people who presently have acquired the right to use these public lands for grazing and other purposes. Under the Senator's amendment a person might file a uranium-mining claim or any other mining claim on lands leased by the Government under the Taylor Grazing Act and acquire the right to the exclusive use of the surface resources and could exclude the person having the right to use the surface from the land. We need this bill just as badly for the public-domain lands as it is needed for the national forest lands. This is a good bill and will correct abuses that have existed for many years and will not interfere with legitimate mining operations.

SENATOR URGES MINERS BE PERMITTED TO BE HEARD

Mr. MALONE. That is the reason I moved to refer the bill to committee and to hold hearings in the Western States, and in that way permit the miners to be heard on this subject most important to them.

I further say to the Senator from Wyoming that his own State can determine the kind of assessment work that must be done. His State can make that determination through its own legislature.

Mr. BARRETT. Many of the mining claimants in my State and the people who use the surface of the public lands have discussed the matter on many occasions. It seems to me that the general opinion of the people of Wyoming is in favor of the pending bill. They are opposed to the provisions of the Senator's amendment, because they feel they need some protection on the public lands as well as they do on the forest lands. They believe this bill will work out to the best interests not only of the people who use the surface resources but also to the miners themselves and to the public generally.

BILL BEING THRUST DOWN MINERS' THROATS

Mr. MALONE. In answer to the distinguished Senator from Wyoming, I would say that in my own State—and I have discussed the matter with every

State mining association in the West—people have been told numerous times in the past 2 years, "You will take this bill, or something worse."

I ask for the yeas and nays on the amendment.

The yeas and nays were not ordered. The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nevada [Mr. MALONE].

The amendment was rejected.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill was read the third time, and passed.

Mr. ANDERSON. Mr. President, I ask unanimous consent that S. 1713 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, its reading clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 3005) to further amend the Universal Military Training and Service Act by extending the authority to induct certain individuals, and to extend the benefits under the Dependents Assistance Act to July 1, 1959.

AMENDMENT OF UNIVERSAL MILITARY TRAINING AND SERVICE ACT—CONFERENCE REPORT

Mr. RUSSELL. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 3005) to further amend the Universal Military Training and Service Act by extending the authority to induct certain individuals, and to extend the benefits under the Dependents Assistance Act to July 1, 1959. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report. (For conference report, see House proceedings of June 23, 1955, pp. 7768-7769, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. CASE of South Dakota. Mr. President, will the Senator from Georgia yield?

Mr. RUSSELL. I yield.

Mr. CASE of South Dakota. Will the Senator state what amendment was made?

Mr. RUSSELL. There was no substantial amendment to the bill as passed by the Senate. The Senate conferees agreed

to a reduction in the maximum age at time of induction of medical registrants from 51 to 46 years. That is the only substantial change made in the bill as it was passed by the Senate. The House agreed to the Senate provisions relating to the National Guard.

Mr. CASE of South Dakota. Including, I presume, the provision that a man who enlisted in the National Guard at the age of 18½ would not be subject to the induction after he reached 28 years.

Mr. RUSSELL. That is correct. The House conferees agreed to the other changes made by the Senate.

Mr. CASE of South Dakota. I think the conferees on the part of the Senate did their duty in splendid fashion.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

AUTHORIZATION OF APPROPRIATIONS FOR THE ATOMIC ENERGY COMMISSION

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 542, S. 2220.

The PRESIDING OFFICER. The Secretary will state the bill by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 2220) to authorize appropriations for the Atomic Energy Commission for the construction of plants and facilities, including acquisition or condemnation of real property or facilities, and for other purposes.

Mr. ANDERSON. Mr. President, I ask the Chair to lay before the Senate a similar bill which has been passed by the House of Representatives.

The PRESIDING OFFICER. The Chair lays before the Senate a bill coming over from the House of Representatives.

The bill (H. R. 6795) to authorize appropriations for the Atomic Energy Commission for acquisition or condemnation of real property or any facilities, or for plant or facility acquisition, construction, or expansion, and for other purposes; was read twice by its title.

Mr. ANDERSON. Mr. President, at this stage, H. R. 6795 is identical with S. 2220, which has been considered and reported to the Senate by the Joint Committee on Atomic Energy. I ask unanimous consent that the Senate proceed to the consideration of H. R. 6795, in place of S. 2220.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Mexico?

There being no objection, the Senate proceeded to consider the bill (H. R. 6795), to authorize appropriations for the Atomic Energy Commission for acquisition or condemnation of real property or any facilities, or for plant or facility acquisition, construction, or expansion, and for other purposes.

THE DIXON-YATES CONTRACT

Mr. KEFAUVER. Mr. President, at this time I wish to speak and inform my

colleagues about a shocking piece of duplicity in connection with the handling, by a group of public utilities, of a contract known as the Dixon-Yates deal.

I desire to bring to the attention of the Senate the shocking effort to cover up an employee of the Federal Government, a consultant to the Bureau of the Budget, who with his associates obtained business for the corporation by which he was employed, thus carrying water on both shoulders, representing both the Government and the other side in this outrageous transaction.

I wish to show, Mr. President, the effort of a committee of Congress to secure the facts about this deal, and the apparent effort to conceal and hide the true facts from the Members of Congress and the public, notwithstanding an earlier pronouncement that the complete information from the inception to the end would be made public.

In what I shall say this afternoon, I shall bring out other examples showing that the more we delve into this contract, the more scandalous it becomes and the more it approaches the point of suggested violation of criminal law, which ought to be looked into by the Attorney General of the United States. I think committees of Congress which have charge of legislation looking to the consummation of this deal should be fully informed about what has taken place.

Mr. President, in the beginning, after a great deal of criticism had been made of the fact that a contract which was entered into without competition and which was wasteful of the Government's money, had been personally ordered to be executed with specific persons by the President of the United States. This is the first time in the history of this Nation that such an order, overruling the vote of the then existing members of an independent commission, has ever been made. After this order had been criticized, the President of the United States, in a press conference on August 18, 1954, declared that all the information and details from the beginning to the end were public information and could be seen by any members of the press, individually or together. Much was made, as shown by newspapers of that date, that all the facts and circumstances, documents, and all information about the contract were going to be made public. I have here, as an example, a copy of the Washington Post and Times Herald with a front-page story, in which it is stated:

The President said every action he had taken in the matter of the contract was on record, and added that anyone could go to the files of the Bureau of the Budget and the Atomic Energy Commission and get the whole story.

I also have before me a copy of the New York Times, quoting the same thing said by the President of the United States.

I should like to read exactly what the President had to say about wanting all the facts about this matter made public, quoting the paraphrase published in line with the policy of not directly quoting

the President. It is a quotation from press conferences, the New York Times, and other newspapers:

He said he was not going to defend himself, as he had told reporters time and time again he should not. He merely said that of course he approved the recommendations for this action and every single official action he took involving contractual relationships of the United States with anybody, and except when the question of national security was directly involved it was open to the public. Any one of you present may, singly or in an investigation group, go to the Bureau of the Budget and to the Chief of the Atomic Energy Commission and get the complete record from the inception of the idea to this very minute.

That was all he had to say about it.

Mr. President, following the August 18, 1954, statement, that all the facts about this matter were public property and that anyone could see the reports, and so forth, Mr. Hughes, the Director of the Budget, appearing before the Joint Committee on Atomic Energy, made a similar statement, namely, that all the facts had been made public. Admiral Strauss made a similar statement before the joint committee. They undertook to issue a mimeographed release from both agencies giving the chronology and the history of what had taken place in connection with the negotiations and everything relating to the so-called Dixon-Yates contract. The chronology is found in the hearings before the Joint Committee on Atomic Energy of November 12 and 13, 1954.

It has been increasingly apparent, from bits of information which have been coming out piecemeal from time to time, that the chronology and information given out by the Atomic Energy Commission and the Bureau of the Budget are not complete; that very important meetings, in which important aspects of the contract was discussed and decided upon, were not reported in the chronology, as I shall show in a little while.

Also, it has become apparent, by piecemeal bits of evidence, that persons who were at the meeting and played an important part in the policy decision were not named in the chronology.

Mr. BUTLER. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. BUTLER. Does the Senator refer to Mr. Wenzell when he says that persons who made important policy decisions were not named in the chronology?

Mr. KEFAUVER. He is one of the persons to whom I am referring.

Mr. BUTLER. Did not the Director of the Bureau of the Budget, Mr. Hughes, testify yesterday under oath that Mr. Wenzell was a member of the staff, a mere consultant, and for that reason he had not mentioned Mr. Wenzell, or any other members of the staff, as distinct from persons who made policy, such as Mr. Strauss, or himself, as Director of the Bureau of the Budget?

Mr. KEFAUVER. Mr. Hughes, of course, tried to explain the failure to mention this important figure who negotiated in this matter. But Mr. Hughes was most conflicting in his tes-

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued June 30, 1955
For actions of June 29, 1955
84th-1st, No. 110

CONTENTS

Accounting.....31	Life insurance.....23	Roads.....11
Appropriations.....2,7,24	Mining.....12	Security.....13
Awards.....18	Missing persons.....10	Selective service.....1
Debt limit.....20,24	Monopolies.....26,29	Small business.....41
Defense production.....3	Mutual security.....8,35	Statehood.....9
Electrification.....33,38	Organization.....4,14	Storage.....29
Farm program.....25	Personnel.....18,23,24,34	Sugar.....40
Foreign aid.....8,35	Postal rates.....21	Surplus commodities
Foreign trade.....5,15	Printing.....624,28,36
Forestry.....12	Property.....27,30	Water resources.....16,32
Lands.....19	Reclamation.....38	Weather.....37
Legislative program.....24	Retirement.....18,23	Wildlife.....17,22,32

HIGHLIGHTS: Senate committee reported bill to extend public debt limit. Senate passed bill to provide retirement credit for certain State service. House debated mutual security bill. House subcommittee approved bill providing retirement credit for State service. House passed bill to establish commission on Government security. Both Houses agreed to conference report on Commerce appropriation bill. House received conference report on defense appropriation bill.

HOUSE (JUNE 28)

- 1. SELECTIVE SERVICE.** Both Houses agreed to the conference report on H. R. 3005, to extend the Selective Service Act until July 1, 1959 (pp. 7981-2, 8015-25). This bill is now ready for the President.
- 2. APPROPRIATIONS.** Received the conference report (H. Rept. 994) on H. R. 6367, the Commerce Department appropriation bill (pp. 8010-2).
Received, from the President, a proposed indefinite appropriation and draft of proposed provisions pertaining to increased pay costs for the fiscal year 1955 (H. Doc. 197) (p. 8060). Attached to this Digest is the complete language of the proposal.
- 3. DEFENSE PRODUCTION.** Both Houses passed without amendment S. J. Res. 85, to extend for one month the National Housing Act, the Defense Production Act, and the Small Business Act (pp. 8053-4, 7960). This measure is now ready for the President.
- 4. ORGANIZATION.** Both Houses received the final report of the Commission on Intergovernmental Relations (H. Doc. 198) (pp. 7957, 8013).

5. FOREIGN TRADE. The Rules Committee reported a resolution, providing for consideration of, one hour of debate on, waiving points of order against, and limiting amendments to, H. R. 6059, to authorize the President to enter into an agreement with the Philippines to revise the 1946 trade agreement (H. Rept. 988) (p. 8051).

6. PRINTING. The Rules Committee reported with amendment H. Res. 262, authorizing the House Administration Committee to make studies relative to unnecessary Government printing and paperwork (H. Rept. 989) (p. 8054).

HOUSE (JUNE 29)

7. APPROPRIATIONS. Both Houses agreed to the conference report on the Commerce Department appropriation bill for 1956 (pp. 8069-72, 8105-6). This bill is now ready for the President.

Received the conference report on H. R. 6239, the D. C. appropriation bill for 1956 (H. Rept. 1031) (pp. 8104-5).

Received the conference report on H. R. 6042, the Defense Department appropriation bill for 1956 (H. Rept. 1030) (pp. 8108-9).

8. FOREIGN AID. Continued debate of S. 2090, the mutual security aid bill (pp. 8109-40).

9. ALASKA STATEHOOD. The Rules Committee reported a privileged resolution providing for debate of H. R. 5166, to authorize a constitutional convention in Alaska (H. Rept. 1025) (p. 8140).

10. MISSING PERSONS. Passed without amendment S. 2266, providing for extension of provisions of the missing persons act until July 1, 1956, in lieu of H. R. 6726 (p. 8140). This bill is now ready for the President.

11. ROADS. House conferees were appointed on S. 1464, the timber access roads bill (p. 8143). Senate conferees were appointed on June 27.

12. FOREST-MINING. House conferees were appointed on H. R. 5891, to provide for multiple use of the surface of public lands (p. 8143). Senate conferees have not been appointed.

13. GOVERNMENT SECURITY. Passed as reported H. J. Res. 157, to establish a Commission on Government Security (pp. 8143-4).

14. ORGANIZATION. Both Houses received a report from the Hoover Commission on intelligence activities (pp. 8067, 8150, 8145).

15. FOREIGN TRADE. Rep. Philbin protested the alleged injustices to American industry and commerce contained in the recent trade agreement with Japan (pp. 8145-6).

16. WATER RESOURCES. Rep. Holifield suggested political chicanery in the printing of the dissenting views to the Hoover Commission report on water resources and power, as the dissenting views were contained in a second volume without any reference made to them in the first volume, containing the majority views (pp. 8148-9).

17. WILDLIFE. Both Houses received a report from the Comptroller General on the audit of the Fish and Wildlife Service, Department of the Interior (pp. 8067, 8150).

Hardy	Lalrd	Saylor
Harrison, Nebr.	Landrum	Schwengel
Harrison, Va.	Lovre	Selden
Harvey	McCulloch	Shuford
Hayworth	McIntire	Smith, Kans.
Henderson	Mack, Wash.	Smith, Miss.
Herlong	Magnuson	Springer
Heslton	Mahon	Steed
Hill	Marshall	Taber
Hoeven	Matthews	Teague, Calif.
Hoffman, Ill.	Miller, Nebr.	Thompson,
Hoffman, Mich.	Murray, Tenn.	Mich.
Holt	Nelson	Thomson, Wyo.
Hope	Norblad	Tuck
Huddleston	Norrell	Utt
Hull	O'Konski	Van Pelt
Jarman	Ostertag	Vursell
Jennings	Patman	Wainwright
Jensen	Plicher	Walter
Johansen	Pillion	Watts
Johnson, Calif.	Poage	Weaver
Johnson, Wls.	Rees, Kans.	Westland
Jonas	Rhodes, Ariz.	Whitten
Jones, Mo.	Riley	Widnall
Jones, N. C.	Roberts	Williams, Miss.
Kean	Robeson, Va.	Williams, N. Y.
Keating	Robson, Ky.	Wilson, Calif.
Kee	Rogers, Colo.	Wilson, Ind.
Kelley, Pa.	Rogers, Fla.	Winstead
Kilgore	Rutherford	Wright
Krueger	St. George	Younger

NAYS—227

Addonizio	Elliot	Madden
Albert	Engle	Mailliard
Allen, Calif.	Fallon	Martin
Allen, Ill.	Fascell	Meador
Andersen,	Feighan	Morrow
H. Carl	Fenton	Metcalfe
Andrews	Fernandez	Miller, Calif.
Arends	Fine	Miller, Md.
Ashley	Fino	Miller, N. Y.
Auchincloss	Flood	Mills
Avery	Fogarty	Minshall
Ayres	Forand	Mollohan
Baldwin	Ford	Morano
Barrett	Friedel	Morgan
Baumhart	Fulton	Moss
Beamer	Gamble	Multer
Becker	Garmatz	Murray, Ill.
Belcher	Gathings	Natcher
Bennett, Mich.	Gavin	Nicholson
Betts	Gordon	O'Brien, Ill.
Blatnik	Granahan	O'Brien, N. Y.
Boggs	Gray	O'Hara, Ill.
Bolling	Green, Oreg.	O'Hara, Minn.
Bolton,	Griffiths	O'Neill
Frances P.	Hale	Passman
Bonner	Halleck	Patterson
Bosch	Harden	Pelly
Bowler	Harris	Pfost
Boyle	Hays, Ark.	Philbin
Brooks, La.	Hays, Ohio	Powell
Brown, Ohio	Hébert	Preston
Broyhill	Hess	Price
Buckley	Hlestand	Prouty
Burdick	Hillings	Quigley
Burnside	Holifield	Rabaut
Bush	Holmes	Radwan
Byrd	Holtzman	Ray
Byrne, Pa.	Hosmer	Reece, Tenn.
Byrnes, Wis.	Hyde	Reed, Ill.
Carnahan	Ikard	Reuss
Celler	Jenkins	Rhodes, Pa.
Chenoweth	Jones, Ala.	Richards
Christopher	Judd	Riehlman
Chudoff	Karsten	Rodino
Clark	Kelly, N. Y.	Rogers, Mass.
Clevenger	Keogh	Rogers, Tex.
Cole	Kilburn	Roosevelt
Cooper	Kilday	Sadlak
Corbett	King, Calif.	Schenck
Coudert	King, Pa.	Scott
Cunningham	Kirwan	Scudder
Curtis, Mass.	Klein	Seely-Brown
Curtis, Mo.	Kluczynski	Sheehan
Dague	Knox	Shelley
Davidson	Lane	Short
Davis, Ga.	Lanham	Sieminski
Davis, Tenn.	Lankford	Simpson, Ill.
Dawson, Ill.	Latham	Sisk
Dawson, Utah	LeCompte	Smith, Va.
Delaney	Lesinski	Staggers
Dempsey	Lipscomb	Sullivan
Denton	Long	Taille
Derounian	McCarthy	Taylor
Devereux	McConnell	Teague, Tex.
Diggs	McCormack	Thomas
Dodd	McDonough	Thompson, La.
Dollinger	McMillan	Thompson, N. J.
Donohue	McVey	Thompson, Tex.
Donovan	Macdonald	Thornberry
Dorn, N. Y.	Machrowicz	Tollefson

Trimble
Vanik
Van Zandt
Velde
Vinson
Vorvys
Wharton

NOT VOTING—50

Anfuso	Gregory	Perkins
Baker	Gubser	Phillips
Barden	Hinshaw	Polk
Bolton,	Horan	Priest
Oliver P.	Jackson	Rains
Boykin	James	Reed, N. Y.
Buchanan	Kearney	Rivers
Canfield	Kearns	Rooney
Chatham	Knutson	Scherer
Cooley	McDowell	Scrivner
Dingell	McGregor	Sheppard
Dolliver	Mack, Ill.	Siler
Doyle	Mason	Simpson, Pa.
Eberharter	Morrison	Smith, Wis.
Ellsworth	Moulder	Spence
Grant	Mumma	Tumulty
Green, Pa.	Osmer	Udall

So the motion to recommit was rejected.

The Clerk announced the following pairs:

Mr. Morrison with Mr. McGregor.
Mr. Eberharter with Mr. Siler.
Mr. Dingell with Mr. Simpson of Pennsylvania.
Mrs. Knutson with Mr. Horan.
Mr. Polk with Mr. Jackson.
Mrs. Buchanan with Mr. James.
Mr. Doyle with Mr. Kearney.
Mr. Moulder with Mr. Baker.
Mr. Anfuso with Mr. Kearns.
Mr. Rooney with Mr. Smith of Wisconsin.
Mr. Cooley with Mr. Osmer.
Mr. Chatham with Mr. Canfield.
Mr. Rains with Mr. Mason.
Mr. Tumulty with Mr. Ellsworth.
Mr. Udall with Mr. Hinshaw.
Mr. Mack of Illinois with Mr. Scrivner.
Mr. Boykin with Mr. Reed of New York.
Mr. Green of Pennsylvania with Mr. Dolliver.
Mr. Rivers with Mr. Scherer.
Mr. Sheppard with Mr. Phillips.
Mr. Priest with Mr. Oliver P. Bolton.
Mr. Grant with Mr. Mumma.
Mr. Gregory with Mr. Gubser.

Mr. SCHENCK changed his vote from "yea" to "nay."

Mr. BUCKLEY changed his vote from "yea" to "nay."

Mr. CARNAHAN changed his vote from "yea" to "nay."

Mr. BYRD changed his vote from "yea" to "nay."

Mr. MAHON changed his vote from "nay" to "yea."

Mrs. HARDEN changed her vote from "yea" to "nay."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken and on a division (demanded by Mr. WILLIAMS of Mississippi) there were—ayes 197, noes 42.

So the conference report was agreed to, and a motion to reconsider was laid on the table.

SALE OF CERTAIN LAND IN ALASKA

Mr. ENGLE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 4853) to authorize the sale of certain land in Alaska to the Pacific Northern Timber Co., with a Senate amendment thereto and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, strike out all after line 22 over to and including line 18 on page 3 and insert:

"Sec. 2. That the land shall be sold to the said Pacific Northern Timber Co. at a reasonable appraised price to be fixed by the Secretary of the Interior, plus the cost of survey and preparation of a plat of survey. Conveyance shall be made only if the said Pacific Northern Timber Co. makes the total payment due within 1 year after notification by the Secretary of the Interior of the amount due: *Provided*, That the coal, oil, and other mineral deposits in the land shall be reserved to the United States, together with the right to prospect for, mine, and remove the same under applicable laws and regulations to be prescribed by the Secretary of the Interior."

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Senate amendment was concurred in, and a motion to reconsider was laid on the table.

ACQUISITION OF CERTAIN RIGHTS-OF-WAY BY SECRETARY OF THE INTERIOR

Mr. ENGLE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1464) to authorize the Secretary of the Interior to acquire certain rights-of-way and timber access roads, with a House amendment thereto, insist on the amendment of the House, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California? [After a pause.] The Chair hears none and appoints the following conferees: MESSRS. ENGLE, ROGERS of Texas, METCALF, SAYLOR, and DAWSON of Utah.

AMENDMENT TO ACT OF JULY 31, 1947 (61 STAT. 681) RELATING TO MINING LAWS

Mr. ENGLE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 5891) to amend the act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes, with Senate amendment thereto, disagree to the Senate amendment, and ask for a conference with the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California? [After a pause.] The Chair hears none and appoints the following conferees: MESSRS. ENGLE, ROGERS of Texas, METCALF, SAYLOR, and DAWSON of Utah.

ESTABLISHING A COMMISSION ON GOVERNMENT SECURITY

Mr. WALTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk House Joint Resolution 157 to establish a Commission on Gov-

ernment Security and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There being no objection, the Clerk read the House joint resolution, as follows:

Resolved, etc.—

DECLARATION OF POLICY

SECTION 1. It is vital to the welfare and safety of the United States that there exists at all times adequate protection of the national security (including the safeguarding of all national defense secrets and public and private defense installations) against loss or compromise arising from espionage, sabotage, disloyalty, subversive activities, or unauthorized disclosures.

It is, therefore, the policy of the Congress that there shall exist a sound Government program—

(a) establishing security procedures with respect to the hiring or continued employment of Government employees (including investigation, evaluation, and, where necessary, adjudication), and also maintaining appropriate security requirements with respect to persons who are privately employed or occupied on work requiring access to national defense secrets or on work affording significant opportunity for injury to the national security;

(b) for vigorous enforcement of effective and realistic security laws and regulations; and

(c) for a careful, consistent, and efficient administration of this policy in a manner which will protect the national security and at the same time preserve basic American rights.

ESTABLISHMENT OF THE COMMISSION ON GOVERNMENT SECURITY

SEC. 2. (a) For the purpose of carrying out the policy set forth in the first section of this joint resolution, there is hereby established a commission to be known as the Commission on Government Security (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of 12 members as follows:

(1) Four appointed by the President of the United States, two from the executive branch of the Government, and two from private life;

(2) Four appointed by the President of the Senate, two from the Senate, and two from private life; and

(3) Four appointed by the Speaker of the House of Representatives, two from the House of Representatives, and two from private life.

(c) Of the members appointed to the Commission not more than two shall be appointed by the President of the United States, or the President of the Senate, or the Speaker of the House of Representatives from the same political party.

(d) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) Service of an individual as a member of the Commission or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of section 281, 283, 284, 434, or 1914 of title 18 of the United States Code, or section 190 of the Revised Statutes (5 U. S. C. 99).

(f) The Commission shall elect a chairman and a vice chairman from among its members.

(g) Seven members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 3. (a) Members of the Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) The members of the Commission who are in the executive branch of the Government shall serve without compensation in addition to that received for their services in the executive branch, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(c) The members of the Commission from private life shall each receive \$50 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

STAFF OF THE COMMISSION

SEC. 4. (a) (1) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of the civil-service laws and the Classification Act of 1949, as amended.

(2) The Commission may procure, without regard to the civil-service laws and the Classification Act of 1949, temporary and intermittent services to the same extent as is authorized for the departments by section 15 of the act of August 2, 1946 (60 Stat. 810), but at rates not to exceed \$50 per diem for individuals.

(b) All employees of the Commission shall be investigated by the Federal Bureau of Investigation as to character, associations, and loyalty, and a report of each such investigation shall be furnished to the Commission.

EXPENSES OF THE COMMISSION

SEC. 5. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this joint resolution.

DUTIES OF THE COMMISSION

SEC. 6. The Commission shall study and investigate the entire Government security program, including the various statutes, Presidential orders, and administrative regulations and directives under which the Government seeks to protect the national security, national defense secrets, and public and private defense installations, against loss or injury arising from espionage, disloyalty, subversive activity, sabotage, or unauthorized disclosure, together with the actual manner in which such statutes, Presidential orders, administrative regulations, and directives have been and are being administered and implemented, with a view to determining whether existing requirements, practices, and procedures are in accordance with the policies set forth in the first section of this joint resolution, and to recommending such changes as it may determine are necessary or desirable. The Commission shall also consider and submit reports and recommendations on the adequacy or deficiencies of existing statutes, Presidential orders, administrative regulations, and directives, and the administration of such statutes, orders, regulations, and directives, from the standpoint of internal consistency of the overall security program and effective protection and maintenance of the national security.

POWERS OF THE COMMISSION

SEC. 7. (a) The Commission or, on the authorization of the Commission, any sub-

committee or member thereof, may, for the purpose of carrying out the provisions of this joint resolution, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission or such subcommittee or member may deem advisable. Subpena may be issued under the signature of the Chairman of the Commission of such subcommittee, or any duly designated member, and may be served by any person designated by such Chairman or member. The provisions of sections 102 to 104, inclusive, of the Revised Statutes (U. S. C., title 2, secs. 192-194), shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(b) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purposes of this joint resolution, and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman.

INTERFERENCE WITH CRIMINAL PROSECUTIONS AND INTELLIGENCE FUNCTIONS

SEC. 8. Nothing contained in this joint resolution shall be construed to require any agency of the United States to release any information possessed by it when, in the opinion of the President, the premature disclosure of such information would jeopardize or interfere with a pending or prospective criminal prosecution, or with the carrying out of the intelligence responsibilities of such agency.

REPORTS

SEC. 9. The Commission shall submit interim reports to the Congress and the President at such time or times as it deems advisable, and shall submit its final report to the Congress and the President not later than January 15, 1956. The final report of the Commission may propose such legislative enactments and administrative actions as in its judgment are necessary to carry out its recommendations. The Commission shall cease to exist 90 days after submission of its final report.

With the following committee amendments:

Page 6, line 23, after "subcommittee", strike "or member."

Page 7, line 5, strike out "or member."

Page 7, line 7, strike out "of such subcommittee, or any duly designated member," and insert "or the chairman of any subcommittee with the approval of a majority of the members of such subcommittee."

Page 7, line 11, strike out "or member."

Page 8, line 6, strike out "premature."

Page 8, line 11, strike out "shall" and insert "may."

Page 8, line 14, strike out "January 15" and insert "December 31."

The committee amendments were agreed to.

The House joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued July 6, 1955
For actions of July 5, 1955
84th-1st, No. 113

CONTENTS

Acres allotments.....34	Foreign trade.....26	Personnel.....3
Air pollution.....12	Forestry.....1	Price supports.....28
Animal disease.....15	Health.....3	Reclamation.....8,27,30
Antitrust laws.....7	Hoover Commission.....29	Research.....11,12
Appropriations..9,17,31,33	Information.....6,23	Rice.....35
Buildings.....2	Labor, farm.....16,17,22	Selective service.....32
Civil defense.....21	Lands.....14	Soil surveys.....20
Defense production.....10	Legislative program...10,22	State compacts.....18
Disaster relief.....34	Livestock.....25	Surplus commodities.....36
Education.....6,23	Minerals.....24	Trade agreements.....22
Electrification.....8,27	Mining.....1	Water.....4,9,10
Food.....11,15	Paperwork studies.....19	Wheat.....13
Foreign aid.....5		

HIGHLIGHTS: House passed air pollution bill. Senate passed public works appropriation bill. Sen. Humphrey discussed Ladejinsky case.

SENATE

1. FORESTS; MINING. Conferees were appointed on H. R. 5891, to provide for the multiple use of the surface of public lands (p. 8440). House conferees were appointed June 29.
2. BUILDINGS. The Public Works Committee reported with amendments S. 1210, to amend the Public Buildings Act of 1949 so as to eliminate the 1-year limitation on the period of leases of space for Federal agencies in D. C. (S. Rept. 702) (p. 8427).
3. PERSONNEL. Received a proposed bill from the Civil Service Commission to make available on a voluntary basis to Federal employees group hospitalization benefits; to Post Office and Civil Service Committee (p. 8427).
Sen. Humphrey commended the reappraisal of the Ladejinsky case by this Department and inserted several newspaper articles on the subject (pp. 8438-40).
4. RIVER COMPACT. The Interior and Insular Affairs Committee reported with amendment S. 787, to authorize certain Missouri Basin States to enter into a compact for the attainment of the conservation and development of the water resources of the Missouri Basin (S. Rept. 701) (p. 8427).

5. FOREIGN AID. Sen. George was excused from further service as a conferee on S. 2090, the mutual security bill, and Sen. Sparkman was appointed in his place (p. 8433).
6. INFORMATION. Received a proposed bill from the U. S. Information Agency to promote the foreign policy of the U. S. by amending the U. S. Information and Educational Exchange Act of 1948; to Foreign Relations Committee (p. 8426).
7. ANTITRUST LAWS. Received a proposed bill from the Attorney General to compel the production of documentary evidence required in civil investigations for the enforcement of the antitrust laws; to the Judiciary Committee (p. 8427).
8. ELECTRIFICATION; RECLAMATION. Sen. Neuberger criticized proposed relinquishment of the Hells Canyon Dam to the Idaho Power Co. (p. 8436).
9. APPROPRIATIONS. Passed with amendments H. R. 6766, the public works appropriation bill for 1956, which includes appropriations for the Atomic Energy Commission, TVA, Bureau of Reclamation, Army Corps of Engineers, and the power-marketing agencies of the Interior Department (pp. 8440-67). Conferees were appointed (p. 8467). The committee report includes the following statement regarding water projects:

"The last few years the committee has been impressed with the increasing problem of water supply for domestic and industrial uses. Practically every part of the country is experiencing a twofold problem; first, an increased demand due to growth of population coupled with a greater per capita use of water; second, a dwindling water supply. The committee feels that increasingly greater attention must be given to the planning and construction of reservoir projects with water conservation storage as a practical means of meeting this growing problem. This appears to be a field where coordination with local authorities is most essential. It is recognized that additional legislation may be required to permit equitable financial arrangements for local participation in the projects that are being planned. The Chief of Engineers should review the present authorities available to him for the storage of water in Federal reservoirs to provide a water supply for municipalities, with a view to determining whether any modification of the existing legislation is necessary to facilitate the development of water supply potentialities in Federally constructed reservoirs.

"The committee believes that consideration should be given to administratively establishing a realistic floor for water resource development, which will permit adequate progress on all phases of this important program."

10. LEGISLATIVE PROGRAM. Sen. Clements announced that today it is planned to have the following bills considered: S. 2391, amendments to the Defense Production Act; and H. R. 3990, to authorize the Interior Department to investigate and report to Congress on water resources in Alaska (pp. 8467-8).

HOUSE

11. RESEARCH. The House Administration Committee reported with amendment H. Res. 156, and the House agreed to it as reported, to provide funds for studies conducted by the Agriculture Committee (pp. 8469, 8527).

The House Administration Committee reported a privileged resolution and the House agreed to it as reported, to provide that additional copies of "Radiation Sterilization of Foods" be printed (pp. 8469, 8527).

last February that hereafter when two department heads differed on security issues the problem would be carried to the White House for decision.

Senator HUBERT H. HUMPHREY, one of the severest critics of Secretary Benson in the case, said it was very refreshing that departments of government are now seeing eye to eye.

The Minnesota Democrat is a cosponsor of a bill approved by the Senate this week, to set up a bipartisan commission to study the Federal employee security program.

Secretary Benson recalled that he had told a news conference on January 5 that reasonable and conscientious men might reach opposite conclusions in security cases.

FOCAL POINT FOR ATTACKS

The Ladejinsky case has been a focal point for attacks on the administration's employee security program since Mr. Benson's decision was announced last December.

At the time Mr. Benson said, "The fact that Mr. Ladejinsky has sisters living in the U. S. S. R. through whom he may be subject to coercion is in itself sufficient to deny the necessary clearance as an agricultural attaché."

The Secretary also cited Mr. Ladejinsky's brief employment more than 20 years ago with the Amtorg Trading Corporation, the Russian buying facility in this country.

For these reasons and others, Mr. Benson held, he could not retain Mr. Ladejinsky in a job "which would make available to him the most highly classified documents of the United States Government."

Mr. Ladejinsky fell under the jurisdiction of the Agriculture Department under a new law that had transferred agricultural attachés to that agency from the State Department.

Mr. Ladejinsky, 55 years old, became a United States citizen in 1928.

He was a far-eastern specialist with the Agriculture Department from 1935 to 1950, when he went to work with the State Department in Japan; he was credited with having played a key role in shaping the postwar land reform program under General of the Army Douglas MacArthur.

[From the New York Times of July 3, 1955]

TEXT OF BENSON'S LETTER

WASHINGTON, July 2.—Following is the text of the letter from the Secretary of Agriculture, Ezra Taft Benson, to Senator FRANK CARLSON, Republican, of Kansas, announcing his decision on Wolf Ladejinsky:

"I am glad for the opportunity to respond to your letter about the Wolf Ladejinsky case.

"As you will appreciate, I have given much consideration to this whole matter since the case arose last December.

"A procedure has been set up under which every adverse recommendation that comes to me is now, and will be, screened by a high-level policy group which includes the Under Secretary, the administrative assistant secretary, the director of personnel and the general counsel. I am sure that this group appreciates the sensitive factors in dealing with security cases and recognizes that the decision is important from the point of view of the individual as well as the government.

"I have publicly stated many times that employment in the Federal Government is not a right but a privilege. I am determined to live up to three responsibilities which I feel are inherent in my position: (1) To aid in safeguarding the security of the United States; (2) to get the best qualified men in the Federal service to serve agriculture, and (3) to preserve and defend the rights of individuals in the American tradition.

"I hope that both the public and Mr. Ladejinsky realize that as far as I am concerned a security decision at a given time, either adverse or favorable, is not necessarily a decision for all of the future. Every such de-

cision should be made in the light of the information currently available at the time the case is reviewed. When the decision on Mr. Ladejinsky's appointment as agriculture attaché was made last year, the security procedures in this Department were being reorganized and we now have better coordination all through the Government. In going over this matter again with my newly constituted security committee, we recognize that since the case was considered by agriculture it has been reviewed by two agencies more experienced in security than this department. We further recognize as expressed in my statement at a press conference on January 5, 1955, that 'It will always be true with respect both to qualifications and to security that reasonable men may not take the same view as to a particular person. It is possible for two equally reasonable and conscientious men to reach different conclusions.'

"In these circumstances and to emphasize our feeling that the previous security decision made by this Department should not continue to be permanently effective, and particularly since Mr. Ladejinsky is an employee of another agency, I have given instructions that the memorandum record of the decision and the press release of December 22 which announced it both be canceled so that our records will not now show Mr. Ladejinsky as a security risk."

[From the Washington Post of July 3, 1955]

BENSON IN REVERSAL CLEARS LADEJINSKY

(By Audrey Graves)

Agriculture Secretary Ezra T. Benson yesterday removed the security risk label from Wolf Ladejinsky, 7 months after he had pinned it on him.

The 55-year-old Russian-born naturalized American was fired from his post as agricultural attaché at Tokyo last December. Benson claimed in a press release at that time that the veteran land reform expert was unsafe.

This was true, Benson charged, because Ladejinsky had sisters living behind the Iron Curtain, had once worked for a Russian firm, and had belonged to two Communist-front organizations.

Ladejinsky stoutly denied he had ever been affiliated with any subversive group or had ever promoted the cause of communism. High United States and Japanese officials, aware of his anti-Communist land-reform work in Japan, rushed to his defense.

Benson said yesterday: "I have given instructions that the memorandum record of the decision and press release of December 22, which announced it, both be canceled, so that our records will not now show Mr. Ladejinsky as a security risk."

Benson made this statement in a letter to Senator FRANK CARLSON, Republican, of Kansas, in reply to one from CARLSON asking how the newly organized security committee in the Agriculture Department might affect the Ladejinsky case. CARLSON is a member of a Senate Civil Service Subcommittee investigating Government personnel policies.

This reversal came as a sudden and dramatic victory for both Ladejinsky and those who have doggedly protested what Senator HUBERT H. HUMPHREY, Democrat, of Minnesota, called Benson's cruel and inhuman treatment of a time-tried and highly effective public servant.

Ladejinsky had twice been cleared by the State Department on the basis of the same information on which Benson acted. And after Benson fired him, the Foreign Operations Administration, headed by Harold E. Stassen, cleared him and sent him to a sensitive job in Indochina.

The FBI found no evidence that Ladejinsky was ever a member of any Communist-front group. The most damaging evidence found, Stassen reported, was that Ladejinsky along with several thousand other loyal

Americans had been on the mailing list of a book-lending agency which had been listed as subversive.

Ladejinsky has since been supervising a land-reform program for the Free Vietnam Government in its fight to stem the onrush of communism.

Benson had stuck to his guns until yesterday. Even then Benson did not admit he had been wrong in removing Ladejinsky. He said his case had come up at a time when the Agriculture Department was reorganizing its security procedures.

He added that since the case had been considered by Agriculture, "it has been reviewed by two agencies more experienced in security than this department."

That was as close as Benson came to admitting error. He recalled a statement he had made at a press conference last January: "It will always be true with respect both to qualifications and to security that reasonable men may not take the same view as to a particular person."

Benson wrote CARLSON that "a procedure has been set up under which every adverse recommendation that comes to me is now, and will be, screened by a high-level policy group which includes the Under Secretary, the Administrative Assistant Secretary, the Director of Personnel, and the General Counsel."

The Secretary's action in removing Ladejinsky was based on the recommendations of two young aides with whom he had been associated in his Mormon Church work before becoming Secretary, and in whom he expressed great confidence.

One was J. Glen Cassidy, the Department's then new security officer, who had been an Army intelligence officer. The other was Milan D. Smith, Benson's administrative assistant, who had been a pea packer in Oregon.

To CARLSON yesterday Benson said he hoped the public and Ladejinsky realize that "a security decision at a given time, either adverse or favorable, is not necessarily a decision for all of the future."

Senator HUMPHREY commented yesterday that Benson's present position on Ladejinsky "could have been stated more clearly." He said, however, he gathered from the Secretary's "verbiage" that he was saying Ladejinsky is not a security risk.

"If that's what he meant," HUMPHREY said, "it is a welcome reversal and an apology. * * * It is very refreshing that departments of Government are now seeing eye to eye."

Said Harry P. Cain, a member of the Subversive Activities Control Board: "Ladejinsky will forgive his accusers, who never faced him, and Secretary Benson is certain not to rely on unsupported allegations in the future. What saves an American tragedy is the happy ending through which justice prevails."

To one man more than any other, Ladejinsky can give thanks for this happy ending, Clark R. Mollenhoff of the Des Moines Register's Washington staff. Convinced that a grievous wrong had been done, Mollenhoff kept hammering at Benson and even tackled President Eisenhower last February 23.

What would he do, Mollenhoff asked the President, if it should come to his attention that a member of the executive department had called a man a member of a subversive organization and had no proof to sustain the charge?

Mr. Eisenhower asked the reporter to submit any facts he had. "I assure you they will get the finest kind of consideration," the President said.

Mollenhoff delivered a letter of specifications to the White House later that day. During the past 4 months Mollenhoff checked periodically to ask whether there was any reply to his letter. There wasn't, at least not until 2 weeks ago.

Meantime, there were reports of strong pressure being put on the President by White House aids and Members of Congress to induce Benson to soften his characterization of Ladejinsky.

HUMPHREY threatened to bring the whole case before the Senate Government Operations Committee.

A forecast of yesterday's culmination came on June 23 when Presidential Press Secretary James C. Hagerty finally answered Moltenhoff's letter.

"I have discussed the matter with the Secretary of Agriculture," Hagerty wrote, "and he has indicated that the release was written a bit too hard. I believe you should get in touch with the Department of Agriculture for any further discussion of the release."

MULTIPLE USE OF PUBLIC LANDS

The PRESIDING OFFICER (Mr. BARKLEY in the chair) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H. R. 5891) to amend the act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ANDERSON. I move that the Senate insist upon its amendment and agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. ANDERSON, Mr. JACKSON, Mr. O'MAHONEY, Mr. MILLIKIN, and Mr. WATKINS conferees on the part of the Senate.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, its reading clerk, announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 6829) to authorize certain construction at military, naval, and Air Force installations, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. VINSON, Mr. KILDAY, Mr. BROOKS of Louisiana, Mr. SHORT, and Mr. ARENDS were appointed managers on the part of the House at the conference.

PUBLIC WORKS APPROPRIATIONS, 1956

The PRESIDING OFFICER. Is there further morning business? If not, the Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H. R. 6766) making appropriations for the Atomic Energy Commission, the Tennessee Valley Authority, certain agencies of the Department of the Interior, and civil functions administered by the Department of the Army, for the fiscal year ending June 30, 1956, and for other purposes.

THE CAPITAL TRANSIT STRIKE

Mr. ELLENDER obtained the floor.

Mr. MORSE. Mr. President, will the Senator yield to me for 2 minutes?

Mr. ELLENDER. I yield.

Mr. MORSE. I wish to make a brief report—there probably will be a later report this afternoon—from the subcommittee of the Committee on the District of Columbia on the Capital Transit strike. We are still searching for Mr. Wolfson—which is a commentary. There is no question about the fact that the chairman of the board of the Capital Transit Co. knows that his Government wants him to appear before a committee hearing on Thursday. He is making his record for the public to judge. Of course, good citizenship and a sense of public responsibility call upon Mr. Wolfson to present himself to the District of Columbia Committee on Thursday for a discussion of the Capital Transit strike. I think it is a very interesting commentary on the chairman of the board of the Capital Transit Co. that he follows fugitive tactics.

However, the committee intends to call upon the Federal law-enforcement agencies to track Mr. Wolfson down, no matter how long it may take. If we cannot get him here on Thursday, we shall have to change our subpoena into a subpoena calling upon the Federal officials to produce him forthwith. But we are going to produce him, Mr. President, no matter how long it may take to track him down, because he has a responsibility to the people of this District to do what he can to bring to an end the present lack of a public transportation service in the District of Columbia.

I wish to make it clear, speaking for myself—although I know I speak the view of many—that the franchise should be lifted in any event. As one studies the financial manipulations of the Capital Transit Co. and recognizes that their aim obviously is "our profits first, and the public be damned," it becomes very clear that the duty of Congress is to bring to an end the franchise, no matter when the strike is settled. In my judgment, the settling of the strike would not justify a continuation of the franchise to the Capital Transit Co.

I wish to repeat that the members of the subcommittee—and I know it is true of the full committee—are unanimously opposed to a public-ownership program. Some of us are inclined to think that the Wolfson syndicate, now that they have just about milked all the profits out of the Capital Transit reserves, would not now object to the District Government's taking over the line in the name of public ownership. However, we are opposed to public ownership. We are satisfied we can get a private enterprise, which places service to the public first, to operate the lines. We are also satisfied that a private company which places public service first can also make a substantial profit.

Mr. CASE of South Dakota. Mr. President, will the Senator yield?

Mr. MORSE. I cannot yield without the permission of the Senator from Louisiana.

Mr. ELLENDER. I yield.

Mr. CASE of South Dakota. Mr. President, I merely wish to express a personal hope which grows out of a little experience with some phases of the operations of the Capital Transit Co. I desire to express the hope that the Senator from Oregon [Mr. MORSE] and his associates will pursue this matter until they get not merely a solution of the immediate strike, but also a solution of the problem which will continue to confront the District of Columbia in connection with transportation matters.

I know that several years ago it came to me as a distinct shock to learn that the reserves of the Capital Transit Co. were to be used for cutting a melon, rather than for meeting an emergency situation. I do not understand the logic of the law which authorizes that a reserve be set up, apart from liability for taxes, and then permits the reserve to be used for declaring a special dividend later on, rather than to be used for whatever emergency may arise, whether it be because of higher operating costs for a period of time, or for replacement of equipment, or for some other emergency problem.

I think the situation calls for an examination of the law and its application, in the light of the facts which were established by the investigation conducted by the distinguished junior Senator from Maine [Mr. PAYNE]. In connection with the audit of the operations of the Transit Co., I believe some difficulty may be found as regards legislation which would be corrective and helpful.

Several years ago, when this matter came to the attention of the Committee on the District of Columbia, it was my thought that possibly we should take legislative action on the subject at that time. But it seemed logical to say then that before we passed legislation on the subject, we should have the benefit of the audit which was provided for by the Payne investigation.

With that as a background, and in view of the bitter experience now being had, I trust that the Committee on the District of Columbia and the Congress will take whatever legislative action may be needed.

Mr. MORSE. Mr. President, with the permission of the Senator from Louisiana [Mr. ELLENDER], I wish to say I am glad the Senator from South Dakota [Mr. CASE] has made his comments. No Member of the Senate is more familiar with the transportation problems of the District of Columbia than is he. He was chairman of the District of Columbia committee when the Payne investigation of the Capital Transit Co. was conducted. I also happened to be a member of that subcommittee, under the leadership of the Senator from Maine [Mr. PAYNE]; but all members of the subcommittee were under the able leadership of the

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

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84th-1st, No. 116

* At this season of the year, during the last few weeks of Congress, the Legisla- *
* tive Reporting Staff receives several hundred requests for information and *
* material each day. Usually only three persons are available to fill these re- *
* quests, and they must also prepare the Digest of Congressional Proceedings, *
* which should be issued as early as possible each day. These employees are here *
* to provide good service, and they want to do so. But if your requests can just *
* as well wait until after 11:00 a. m., such scheduling (for either visits or *
* phone calls) will enable us to render better over-all service to the Department. *
* It will also be helpful if you will arrange to consolidate your requests to the *
* extent feasible. *

CONTENTS

Accounting.....44	Grant-in-aid programs...14	REA.....25
Agricultural	Health.....45	Refugee relief.....18,35
conservation payments.14	Hoover Commission....57,62	Reclamation.....8,32,51
Appropriations..1,15,29,65	Immigration.....54	Research.....13,14,21
ARS.....9	Inspection and grading..14	Roads.....5,6,57
CCC sales.....48	Intergovernmental	Rose.....46
Commodity exchanges.....23	relations.....14	Small business.....36
Corporations.....37	Labor.....65,66	Soil conservation.10,14,60
Cotton.....33	Lands.....9,31,59	Storage facilities.....41
County committeemen....52	Legislative program..15,29	Sugar.....61
Dairy industry.....55,65	Livestock loans.....20	Surplus commodities.....16
Defense production.....29	Marketing.....12,67	Technical assistance....14
Electrification	Mining.....3	Tobacco.....21
.....8,25,38,50,51	Monopolies.....57,64	Tariffs.....58
Experiment stations.....14	Mutual security.....1	Trade development.....17
FAO.....65	Onions.....23	Traffic management.....43
Farm credit.....15	Organization.....19	Transportation.....43
Farm loans.....28,60,65	Personnel.....7,30	Travel expenses.....2
Feed grain.....11	Prices, farm.....56	Vehicles.....39
Fertilizer.....40	support.....26,60	Water.....4,47,50
Flood control.....10,34	Property.....42	Weather.....24
Foreign aid.....1,53	Purchasing.....68	Wheat.....27
Forestry.3,5,9,13,22,49,59		

HIGHLIGHTS: Senate agreed to and House received conference report on forest mining bill. Senate passed bills to: extend livestock loans, provide for USDA report on tobacco research program, request USDA report on agricultural weather forecasting, include onions under CEA, and amend Farm Tenant Act. House received conference report on travel expense allowance bill. House passed mutual security appropriation bill.

HOUSE

1. FOREIGN AID. Passed with amendment H. R. 7224, the mutual security aid appropriation bill (pp. 8776-8818, 8823). Rejected by a voice vote an amendment offered by Rep. Whitten to prohibit the use of funds for technical assistance programs designed to increase agricultural production of underdeveloped countries; and rejected by a vote of 84 to 146 an amendment offered by Rep. Hand that the United States contribution to international agencies be limited to 33 1/3 % of the budget of such international agency.
The bill provides appropriations of \$2,638,741,750 (\$627,900,000 less than the budget estimates) and a reduction of \$21,366,750 in the estimated unobligated balances, and includes \$150,500,000 for technical assistance programs. The committee report requests that future budget estimates for this program be submitted to Congress earlier in the session. The report also states, "Another matter which seriously concerns the Committee is the evidence of questionable administrative practices followed in obligating, deobligating, and reobligating funds ..." (H. Rept. 1086) (p. 8823).
2. TRAVEL EXPENSES. Received the conference report on H. R. 6295, the per diem allowance for subsistence and travel expenses allowance (H. Rept. 1088) (pp. 8775-6, 8823). The House conferees receded from their disagreements to the Senate amendments, which provide for a maximum per diem allowance of \$12 and motorcycle mileage allowance of 6 cents and automobile allowance of 10 cents.
3. MINING; FORESTS. Received the conference report on H. R. 5891, providing for multiple use of the surface of the same tracts of public lands (H. Rept. 1096) (pp. 8818-9, 8823). The Senate agreed to the conference report (pp. 8713-4).
4. WATER. Conferees were appointed for consideration of H. R. 3990, providing for a study of water resources and potential of Alaska (p. 8818). Senate conferees have not been appointed.
5. ROADS. Received the conference report on S. 1464, authorizing the Secretary of the Interior to acquire certain rights-of-way and timber access roads (H. Rept. 1097) (p. 8819).
6. HIGHWAYS. Rep. Sieminski urged that the tax load on the highway user be considered when methods for financing the Federal aid highway bill are under study (pp. 8819-20, 8822).
7. PERSONNEL. The Rules Committee reported H. Res. 304, which would authorize the Post Office and Civil Service Committee to conduct studies and investigations of various specified matters within their jurisdiction (H. Rept. 1089) (p. 8776).
8. RECLAMATION; ELECTRIFICATION. The Interior and Insular Affairs Committee reported with amendments H. R. 3383, to authorize the construction, operation, and maintenance of the Colorado River storage project (H. Rept. 1087) (p. 8823).
9. LANDS. The Interior and Insular Affairs Committee reported without amendment S. 1878, to continue availability of certain ARS lands for transfer to Miles City, Mont. (H. Rept. 1091) (p. 8823).

AMENDING THE ACT OF JULY 31, 1947 (61 STAT. 681), AND THE
MINING LAWS TO PROVIDE FOR MULTIPLE USE OF THE SUR-
FACE OF THE SAME TRACTS OF THE PUBLIC LANDS

JULY 11, 1955.—Ordered to be printed

Mr. ENGLE, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H. R. 5891]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5891) to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with a further amendment as follows:

On page 5, line 17, of the Senate engrossed amendment, after the words "United States", insert the words *subsequent to the location of the claim*; and the Senate agree to the same.

CLAIR ENGLE,
WALTER ROGERS,
LEE METCALF,
JOHN P. SAYLOR,
WILLIAM A. DAWSON,
Managers on the Part of the House.

CLINTON P. ANDERSON,
HENRY M. JACKSON,
JOSEPH C. O'MAHONEY,
EUGENE D. MILLIKIN,
ARTHUR V. WATKINS,
Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5891) to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report as to each of such amendments; namely:

Amendment No. 1: Insertion, after the words "but not limited to," where they first occur in the first full sentence of section 1, of the words "common varieties of the following:". Agreed to by the managers on the part of the House, this amendment results in language in section 1 conforming to the initial clause of section 3 of the bill, which in turn is complementary to the definition of "common varieties" contained in the last full sentence of section 3.

Amendment No. 2: Addition, in the first sentence of section 1 of the bill, following the words "is not otherwise expressly authorized by law, including", of the words ", but not limited to, the Act of June 28, 1934 (48 Stat. 1269), as amended, and". Agreed to by the managers on the part of the House, this amendment refers to the Taylor Grazing Act of 1934, and makes clear the intent to leave the provisions of this act unaffected by the terms of the bill.

Amendment No. 3: Deletion, following the word "municipalities" in the second full sentence of section 1, of the words "or any person,". Agreed to by the managers on the part of the House, this amendment deletes a clause contained in the Materials Disposal Act of 1947 (61 Stat. 681), in the belief that authority of the Secretary of the Interior to make available, without charge, materials and resources subject to the act, should not include such discretionary power in the case of individuals. Authority in this respect affecting governmental subdivisions, nonprofit associations or corporations, etc., is unaffected by the amendment.

Amendment No. 4: Deletion, after the words "Department of Agriculture" where they last appear in section 1 of the bill, of the proviso:

: Provided, That, notwithstanding any other provisions of law, such leases or permits may be issued for lands administered for national parks, monuments, and wildlife purposes only when the President, by Executive order, finds and declares that such action is necessary in the interests of national defense.

Originally inserted in the bill by House committee amendment, this proviso was intended to insure that amendments to the Materials Act of 1947 contained in section 1 of the bill would not be construed as opening lands administered for the purposes specified to Materials Act entry. In concurring in the Senate amendment deleting the proviso, the House managers are in agreement that the fourth full sentence of section 1 of the bill clearly accomplishes the purpose intended by the proviso, and that the language deleted might have

been subject to a construction vesting in the executive branch authority with respect to these areas presently reserved to the Congress.

Amendment No. 5: Addition, following the proviso in subsection (b) of section 4 of the bill, of a further proviso as follows:

Provided further, That if at any time the locator requires more timber for his mining operations than is available to him from the claim after disposition of timber therefrom by the United States, he shall be entitled, free of charge, to be supplied with timber for such requirements from the nearest timber administered by the disposing agency which is ready for harvesting under the rules and regulations of that agency and which is substantially equivalent in kind and quantity to the timber estimated by the disposing agency to have been disposed of from the claim:

The managers on the part of the House agreed to this Senate amendment, with an amendment inserting, after the words "United States", the words "subsequent to the location of the claim,". The amendment, as amended and agreed to by the conference committee, would require the Federal agency disposing, after location, of timber on a claim, to supply timber to the claimant in the amount the Federal agency has removed if the claimant needs such timber in his mining operation.

Amendment No. 6: Occurs in subsection (b) of section 4, in the form of an additional proviso, to be inserted after the proviso adopted by agreement to amendment 5, as follows:

Provided further, That nothing in this Act shall be construed as affecting or intended to affect or in any way interfere with or modify the laws of the States which lie wholly or in part westward of the ninety-eighth meridian relating to the ownership, control, appropriation, use, and distribution of ground or surface waters within any unpatented mining claim.

Agreed to by the House managers, this amendment makes clear an intent to leave unaffected the operation of State water laws in the reclamation West governing the ownership, control, appropriation, use, and distribution of ground or surface waters.

Amendment No. 7: Insertion, preceding the word "limitation" where it first occurs following the words "United States" in section 7, of the word "reservation".

Amendment No. 8: Insertion, after the word "limitation" where it first occurs following the words "United States" in section 7, of a comma.

Amendment No. 9: Insertion, preceding the word "limitation" where it last occurs following the words "United States" in the House version of section 7, of the word "reservation".

Amendment No. 10: Insertion, after the word "limitation" where it last occurs following the words "United States" in the House version of section 7, of a comma.

Amendment No. 11: Following the word "patent", where it last occurs in the House version of section 7, striking the period and adding the following:

, or to limit or restrict any use of the lands covered by any patented or unpatented mining claim by the United States, its lessees, permittees, and licensees which is otherwise authorized by law.

The House managers agreed to these several clarifying and perfecting amendments (amendments Nos. 7 through 11) to underscore the legislative intent to leave unaffected the scope and operation of certain existing statutes which limit or restrict mining activities upon

lands owned by the United States. Examples include: the act of April 8, 1948 (62 Stat. 162), which opened the revested Oregon & California Railroad grant lands and the reconveyed Coos Bay Wagon Road grant lands to exploration, location, entry, and disposition under the general mining laws, but which limited—with respect to timber on such lands—the rights of persons making entry on those lands; the act of August 12, 1953 (Public Law 250, 83d Cong., 1st sess.; 67 Stat. 539), and the act of August 13, 1954 (Public Law 585, 83d Cong., 2d sess.; 68 Stat. 708), both of which operate, within the terms thereof, to create authority for, and to establish procedure whereby, there is reserved to the United States all Leasing Act minerals. Further, the latter two acts operate to reserve to the United States, its lessees, permittees, and licensees, within the limits specifically set out, the right to entry upon and removal from mining locations (prior to, and after patent) of Leasing Act minerals; and the right to use mining locations, or restricted mineral patent lands falling within the scope of the acts is similarly reserved to the United States, its lessees, etc., for access to adjacent lands for mineral leasing activities.

CLAIR ENGLE,
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Managers on the Part of the House.



is one of opposition to these programs I have mentioned, programs which would give to our own people a better share of our Nation's abundance and great wealth.

Even with our foreign-aid program, the Nation has tremendous surpluses of food and of all kinds of civilian goods which offer good living to our people. Yet with these great surpluses and the Nation's ever-increasing productive might, many of our citizens such as farmers, part-time and unemployed industrial workers, and others are faced with lower living standards.

Certainly, many of our own folks deserve a better break than they are getting. But there is no evidence that we can help them by destroying this important program as the opponents of this bill would like to do.

If we follow the thinking and philosophy of those who oppose this bill, and who also oppose liberal domestic policies, the chances are that unemployment and distress in this country would grow along with the pile of surplus food and everything else.

I trust, Mr. Chairman, that the same thought and consideration for our own people be given when we vote to improve minimum wage, social security, housing, and other legislation designed to do something for our own people.

Mr. PASSMAN. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. WALTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H. R. 7224) making appropriations for mutual security for the fiscal year ending June 30, 1956, and for other purposes, had directed him to report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. HAND. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. HAND. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. HAND moves to recommit the bill to the Committee on Appropriations.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. WILLIAMS of Mississippi. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 251, nays 123, not voting 60, as follows:

[Roll No. 112]

YEAS—251

Addonizio
Albert
Alien, Calif.
Allen, Ill.
Arends
Ashley
Aspinall
Auchincloss
Avery
Ayres
Baker
Baldwin
Bass, N. H.
Bates
Baumhart
Becker
Bennett, Fla.
Boggs
Boland
Bolling
Bolton,
Frances P.
Bolton,
Oliver P.
Bowler
Boykin
Boyle
Brooks, Tex.
Brown, Ga.
Broyhill
Burleson
Byrd
Byrne, Pa.
Byrnes, Wis.
Canfield
Cannon
Carnahan
Carrigg
Celler
Chelf
Chiperfield
Chudoff
Clark
Cole
Cooper
Corbett
Coudert
Cramer
Cretella
Cunningham
Curtis, Mass.
Dague
Davidson
Davis, Ga.
Dawson, Ill.
Dawson, Utah
Deane
Delaney
Denton
Derounian
Devereux
Dixon
Dodd
Dolliver
Donohue
Donovan
Dorn, N. Y.
Doyle
Durham
Edmondson
Elliott
Ellsworth
Engle
Fallon
Fascell
Feighan
Fenton
Flood
Fogarty
Forand
Ford
Forrester
Fountain
Frazier
Frelinghuysen

Friedel
Fulton
Gambie
Garmatz
Gary
Gathings
George
Gordon
Granahan
Green, Oreg.
Griffiths
Gubser
Hagen
Hale
Halleck
Harden
Hardy
Harris
Harvey
Hays, Ark.
Hays, Ohio
Hayworth
Heseltun
Hillings
Hollifield
Holmes
Holt
Holtzman
Hope
Horan
Huddleston
Hyde
Ikard
Jarman
Jenkins
Johnson, Wls.
Jones, Ala.
Jones, Mo.
Judd
Karsten
Kean
Kearns
Keating
Kee
Kelley, Pa.
Keogh
Kilburn
Kilday
King, Calif.
Kluczynski
Knutson
Lane
Lanham
Lankford
Latham
LeCompte
Lesinski
Lipscomb
McCarthy
McConnell
McCormack
McDonough
Macdonald
Machrowicz
Mack, Ill.
Madden
Magnuson
Mahon
Malliard
Marshall
Martin
Matthews
Meador
Merrow
Metcalf
Miller, Md.
Minshall
Mollohan
Morano
Morgan
Moss
Muller
Murray, Ill.
Murray, Tenn.
Natcher

Norblad
O'Brien, Ill.
O'Brien, N. Y.
O'Hara, Ill.
O'Neill
Ostertag
Passman
Patman
Patterson
Pelly
Pfost
Philbin
Pilcher
Pillion
Poage
Poff
Preston
Price
Priest
Prouty
Quigley
Rabaut
Radwan
Rains
Ray
Reuss
Rhodes, Ariz.
Rhodes, Pa.
Richards
Riehlman
Riley
Roberts
Robson, Ky.
Rodino
Rogers, Mass.
Rooney
Roosevelt
Schenck
Schwengel
Scott
Scudder
Seely-Brown
Selden
Shelley
Sheppard
Sieminski
Simpson, Pa.
Sisk
Smith, Miss.
Spence
Springer
Staggers
Steed
Sullivan
Taber
Teague, Calif.
Thompson, N. J.
Thompson, Tex.
Thornberry
Tollefson
Trimble
Tumulty
Vanik
Van Zandt
Velde
Vinson
Vorys
Vursell
Wainwright
Walter
Watts
Westland
Wickersham
Wigglesworth
Williams, N. J.
Wilson, Ind.
Wolcott
Wolverton
Wright
Yates
Young
Younger
Zablocki

NAYS—123

Abbltt
Abernethy
Adair
Alexander
Alger
Andersen,
H. Carl
Andresen,
August H.
Andrews
Ashmore
Bailey
Barden
Bass, Tenn.
Beamer
Belcher
Bell
Bennett, Mich.
Bentley
Berry
Betts
Blitch
Bonner
Bosch
Bow
Bray
Brooks, La.
Brown, Ohio
Brownson
Budge
Burdick
Carlyle
Cederberg
Church
Clevenger
Colmer
Cooley
Coon
Crumpacker
Curtis, Mo.
Davis, Wis.
Dempsey

Dies
Dondoro
Dorn, S. C.
Dowdy
Fisher
Fjare
Flynt
Gavin
Gentry
Grant
Gray
Gross
Gwinn
Haley
Hand
Harrison, Nebr.
Harrison, Va.
Henderson
Herlong
Hiestand
Hoeven
Hull
Jennings
Jensen
Johansen
Jonas
Jones, N. C.
Kilgore
King, Pa.
Knox
Krueger
Laird
Landrum
Long
Love
McIntire
McMillan
McVey
Mack, Wash.
Mason
Miller, Nebr.
Mills

Moulder
Nelson
Nicholson
Norrell
O'Hara, Minn.
O'Konski
Phillips
Reece, Tenn.
Reed, Ill.
Rees, Kans.
Robeson, Va.
Rogers, Fla.
Rogers, Tex.
Rutherford
Saylor
Scherer
Scrivner
Shuford
Sikes
Siler
Simpson, Ill.
Smith, Kans.
Smith, Va.
Smith, Wis.
Talle
Teague, Tex.
Thomas
Thompson, La.
Thompson, Mich.
Thomson, Wyo.
Tuck
Van Pelt
Weaver
Wharton
Whitten
Wier
Williams, Miss.
Williams, N. Y.
Willis
Winstead
Withrow

NOT VOTING—60

Anfuso
Barrett
Blatnik
Buchanan
Buckley
Burnside
Bush
Chase
Chatham
Chenoweth
Christopher
Davis, Tenn.
Diggs
Dingell
Dollinger
Eberhart
Evins
Fernandez
Fine
Fino

Green, Pa.
Gregory
Hébert
Hess
Hill
Hinshaw
Hoffman, Ill.
Hoffman, Mich.
Hosmer
Jackson
James
Johnson, Calif.
Kearney
Kelly, N. Y.
Kirwan
Klein
McCulloch
McDowell
McGregor
Miller, Calif.

Miller, N. Y.
Morrison
Mumma
Osmer
Perkins
Polk
Powell
Reed, N. Y.
Rivers
Rogers, Colo.
Sadlak
St. George
Sheehan
Short
Taylor
Udall
Utt
Widnall
Wilson, Calif.
Zelenko

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Widnall for, with Mr. Hoffman of Illinois against.

Mr. Osmer for, with Mr. Hoffman of Michigan against.

Mr. Sadlak for, with Mr. Sheehan against.

Mr. Anfuso for, with Mr. Short against.

Mr. Taylor for, with Mr. McGregor against.

Mr. Klein for, with Mr. McCulloch against.

Mr. Hébert for, with Mr. Utt against.

Mr. Fernandez for, with Mr. Chase against.

Until further notice:

Mr. Eberhart with Mr. Hess.

Mr. Fine with Mr. Miller of New York.

Mr. Dollinger with Mr. Mumma.

Mr. Dingell with Mr. Reed of New York.

Mr. Morrison with Mrs. St. George.

Mr. Burnside with Mr. Hill.

Mr. Buckley with Mr. Hinshaw.

Mrs. Buchanan with Mr. Fino.

Mr. Green of Pennsylvania with Mr. Bush.

Mr. Barrett of Pennsylvania with Mr. Chenoweth.

Mr. Chatham with Mr. Wilson of California.

Mrs. Kelly with Mr. Kearney.

Mr. Kirwan with Mr. Johnson of California.

Mr. Miller of California with Mr. Jackson.

Mr. Evins with Mr. Hosmer.
Mr. Zelenko with Mr. James.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. PASSMAN. Mr. Speaker, I ask unanimous consent that all Members speaking on the mutual security appropriation bill may have 5 legislative days in which to extend and revise their own remarks.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

WATER RESOURCES OF ALASKA

Mr. ENGLE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 3990) to authorize the Secretary of the Interior to investigate and report to the Congress on projects for the conservation, development, and utilization of the water resources of Alaska, with a Senate amendment, disagree to the Senate amendment, and ask for a conference with the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California? [After a pause.] The Chair hears none and appoints the following conferees: Messrs. ENGLE, ASPINALL, O'BRIEN of New York, MILLER of Nebraska, and SAYLOR.

MULTIPLE USE OF SURFACE OF SAME TRACTS OF PUBLIC LANDS

Mr. ENGLE submitted the following conference report and statement on the bill (H. R. 5891) to amend the act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 1096)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5891) to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with a further amendment as follows:

On page 5, line 17, of the Senate engrossed amendment, after the words "United States", insert the words "subsequent to the location of the claim"; and the Senate agree to the same.

CLAIR ENGLE,
WALTER ROGERS,
LEE METCALF,
JOHN P. SAYLOR,
WILLIAM A. DAWSON,

Managers on the Part of the House.

CLINTON P. ANDERSON,
HENRY M. JACKSON,
JOSEPH C. O'MAHONEY,
EUGENE D. MILLIKIN,
ARTHUR V. WATKINS,

Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5891) to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report as to each of such amendments; namely:

Amendment No. 1: Insertion, after the words "but not limited to," where the first occur in the first full sentence of section 1, of the words "common varieties of the following:". Agreed to by the managers on the part of the House, this amendment results in language in section 1 conforming to the initial clause of section 3 of the bill, which in turn is complementary to the definition of "common varieties," contained in the last full sentence of section 3.

Amendment No. 2: Addition, in the first sentence of section 1 of the bill, following the words "is not otherwise expressly authorized by law, including", of the words "but not limited to, the Act of June 28, 1934 (48 Stat. 1269), as amended, and". Agreed to by the managers on the part of the House, this amendment refers to the Taylor Grazing Act of 1934, and makes clear the intent to leave the provisions of this act unaffected by the terms of the bill.

Amendment No. 3: Deletion, following the word "municipalities" in the second full sentence of section 1, of the words "or any person.". Agreed to by the managers on the part of the House, this amendment deletes a clause contained in the Materials Disposal Act of 1947 (61 Stat. 681), in the belief that authority of the Secretary of the Interior to make available, without charge, materials and resources subject to the act, should not include such discretionary power in the case of individuals. Authority in this respect affecting governmental subdivisions, non-profit associations, or corporations, etc., is unaffected by the amendment.

Amendment No. 4: Deletion, after the words "Department of Agriculture" where they last appear in section 1 of the bill, of the proviso: "Provided, That, notwithstanding any other provisions of law, such leases or permits may be issued for lands administered for national parks, monuments, and wildlife purposes only when the President, by Executive order, finds and declares that such action is necessary in the interests of national defense." Originally inserted in the bill by House committee amendment, this proviso was intended to insure that amendments to the Materials Act of 1947 contained in section 1 of the bill would not be construed as opening lands administered for the purposes specified to Materials Act entry. In concurring in the Senate amendment deleting the proviso, the House managers are in agreement that the fourth full sentence of section 1 of the bill clearly accomplishes the purpose intended by the proviso, and that the language deleted might have been subject to a construction vesting, in the executive branch, authority with respect to these areas presently reserved to the Congress.

Amendment No. 5: Addition, following the proviso in subsection (b) of section 4 of the bill, of a further proviso as follows: "Provided further, That if at any time the locator requires more timber for his mining operations than is available to him from the claim after disposition of timber therefrom by the United States, he shall be entitled, free of charge, to be supplied with timber for such requirements from the nearest timber administered by the disposing agency which is ready for harvesting under the rules and regulations of that agency and

which is substantially equivalent in kind and quantity to the timber estimated by the disposing agency to have been disposed of from the claim: "The managers on the part of the House agreed to this Senate amendment, with an amendment inserting, after the word "United States", the words "subsequent to the location of the claim.". The amendment, as amended and agreed to by the conference committee, would require the Federal agency disposing, after location, of timber on a claim, to supply timber to the claimant in the amount the Federal agency has removed if the claimant needs such timber in his mining operation.

Amendment No. 6: Occurs in subsection (b) of section 4, in the form of an additional proviso, to be inserted after the proviso adopted by agreement to amendment 5, as follows: "Provided further, That nothing in this Act shall be construed as affecting or intended to affect or in any way interfere with or modify the laws of the States which lie wholly or in part westward of the ninety-eighth meridian relating to the ownership, control, appropriation, use, and distribution of ground or surface waters within any unpatented mining claim." Agreed to by the House managers, this amendment makes clear an intent to leave unaffected the operation of State water laws in the reclamation West governing the ownership, control, appropriation, use, and distribution of ground or surface waters.

Amendment No. 7: Insertion, preceding the word "limitation" where it first occurs following the words "United States" in section 7, of the word "reservation".

Amendment No. 8: Insertion, after the word "limitation" where it first occurs following the words "United States" in section 7, of a comma.

Amendment No. 9: Insertion, preceding the word "limitation" where it last occurs following the words "United States" in the House version of section 7, of the word "reservation".

Amendment No. 10: Insertion, after the word "limitation" where it last occurs following the words "United States" in the House version of section 7, of a comma.

Amendment No. 11: Following the word "patent", where it last occurs in the House version of section 7, striking the period and adding the following: "or to limit or restrict any use of the lands covered by any patented or unpatented mining claim by the United States, its lessees, permittees, and licensees which is otherwise authorized by law." The House managers agreed to these several clarifying and perfecting amendments (amendments Nos. 7 through 11) to underscore the legislative intent to leave unaffected the scope and operation of certain existing statutes which limit or restrict mining activities upon lands owned by the United States. Examples include: the act of April 8, 1942 (62 Stat. 162), which opened the revested Oregon & California Railroad grant lands and the reconveyed Coos Bay Wagon Road grant lands to exploration, location, entry, and disposition under the general mining laws, but which limited—with respect to timber on such lands—the rights of persons making entry on those lands; the act of August 12, 1953 (Public Law 250, 83d Cong., 1st sess.; 67 Stat. 559), and the act of August 13, 1954 (Public Law 585, 83d Cong., 2d sess.; 68 Stat. 708), both of which operate, within the terms thereof, to create authority for, and to establish procedure whereby, there is reserved to the United States all Leasing Act minerals. Further, the latter two acts operate to reserve to the United States, its lessees, permittees, and licensees, within the limits specifically set out, the right to entry upon and removal from mining locations (prior to, and after patent) of Leasing Act minerals; and the right to use mining locations, or restricted mineral patent lands falling within the scope

of the acts is similarly reserved to the United States, its lessees, etc., for access to adjacent lands for mineral leasing activities.

CLAIR ENGLE,
WALTER ROGERS,
LEE METCALF,
JOHN P. SAYLOR,
WILLIAM A. DAWSON,

Managers on the Part of the House.

ACQUISITION OF RIGHTS-OF-WAY
AND ACCESS ROADS BY SECRE-
TARY OF THE INTERIOR

Mr. ENGLE submitted the following conference report and statement on the bill (S. 1464) authorizing the Secretary of the Interior to acquire certain rights-of-way and timber access roads:

CONFERENCE REPORT (H. REPT. No. 1097)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1464) to authorize the Secretary of the Interior to acquire certain rights-of-way and timber access roads, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same.

CLAIR ENGLE,
WALTER ROGERS,
LEE METCALF,
JOHN P. SAYLOR,
WILLIAM A. DAWSON,

Managers on the Part of the House.

RUSSELL B. LONG,
CLINTON P. ANDERSON,
RICHARD L. NEUBERGER,
GEORGE W. MALONE,
HENRY DWORSHAK,

Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the

House to the bill (S. 1464) authorizing the Secretary of the Interior to acquire certain rights-of-way and timber access roads, submit the following statement in explanation of the effect of the action agreed upon and recommended in the accompanying conference report:

The House amendment removed from S. 1464 a 5-year limitation upon the authority of the Secretary of the Interior to acquire certain rights-of-way and timber access roads. The Senate conferees, in receding from their disagreement to the removal of this restriction, concurred in the opinion of the House conferees that the Department of the Interior should be given authority comparable to that which the Department of Agriculture has had for some time in the management of national forest lands.

CLAIR ENGLE,
WALTER ROGERS,
LEE METCALF,
JOHN P. SAYLOR,
WILLIAM A. DAWSON,

Managers on the Part of the House.

PROPOSED LEGISLATION ON NA-
TIONAL HIGHWAY PROGRAM

(Mr. SIEMINSKI asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. SIEMINSKI. Mr. Speaker, quite soon now, the Congress will present the American people with a program to build highways financed to fit the needs of our great and growing country.

The question is, will the program be financed to fit the purse of all, or will it continue to penalize the American car owner, bus operator and trucker with arbitrary and unreasonable automotive levies as he is being penalized on the highways of America today?

I hope that when the highway bill is framed for floor action by the Committee on Public Works, that it reflects an equal solicitude for the purse of all.

The bill will pass in the House with a handsome victory and the program will

succeed with fabulous results if framed to call a halt in the foreseeable future to the mounting cost of motoring in the United States.

For the past 24 years, from 1930 to 1954, the American car owner, the bus operator and the trucker have paid ever-increasing taxes on fuel and lubricating oils. They are charged with tolls on bridges and tunnels that help pay for projects not connected with their travel, not to mention the tremendous cost to them in man hours paid to keep cars, buses and trucks serviced and repaired throughout the United States with the purchase of spare parts this requires.

In various parts of the country, the American car owner is being victimized by these unjust levies. He is being used to finance projects not connected with his travel. The American car owner "is the goose that has been laying the golden egg." His impact on the American economy is staggering. The satisfaction of his needs puts to work tremendous numbers of people in the automotive, truck and bus manufacturing industries.

The figures below tell a fascinating story of the contribution made by the motorist to our economy.

In appendix I, you can actually see America growing on wheels and still growing. It is a revelation. I would like you to read it, it indicates the motor fuel and lubricating oil consumption and Federal tax collections from 1930 to 1954.

Listed also are the States and the amounts of moneys each collected from automobiles, buses and trucks on the imposition of a State motor fuel tax. You will note in the first table the taxes that were collected by the Federal Government. In the second table, the taxes collected by each State. Again, you see the millions of dollars collected by States from its tax on gasoline.

APPENDIX I

Motor fuel and lubricating oil: Consumption and Federal tax collections, 1930-54

Year ¹	Motor fuel consumption	Lubricating oil, indicated consumption ²	Federal gasoline and diesel fuel tax collections ³	Federal lubricating oil tax collections ³
1930	15,777,707,000	906,738,000	0	0
1931	16,711,699,000	836,808,000	0	0
1932	15,516,717,000	697,788,000	0	0
1933	15,482,744,000	720,384,000	\$124,929,000	\$16,233,000
1934	16,760,701,000	776,328,000	202,575,000	25,255,000
1935	17,854,479,000	825,762,000	161,532,000	27,800,000
1936	19,799,621,000	937,566,000	177,340,000	27,103,000
1937	21,374,697,000	979,566,000	196,533,000	31,463,000
1938	21,637,311,000	891,786,000	203,648,000	31,565,000
1939	22,916,486,000	995,946,000	207,019,000	30,497,000
1940	24,404,334,000	1,036,980,000	226,187,000	31,233,000
1941	26,720,118,000	1,270,710,000	343,021,000	38,221,000
1942	22,692,497,000	1,220,394,000	369,587,000	46,432,000
1943	18,871,422,000	1,321,278,000	288,786,000	43,318,000
1944	19,523,552,000	1,359,246,000	271,217,000	52,473,000
1945	22,303,755,000	1,484,028,000	405,563,000	92,865,000
1946	29,201,465,000	1,465,422,000	405,695,000	74,602,000
1947	32,035,886,000	1,506,624,000	433,676,000	82,015,000
1948	34,706,959,000	1,511,286,000	478,638,000	80,887,000
1949	36,835,254,000	1,390,242,000	503,647,000	81,790,000
1950	40,279,607,000	1,631,826,000	526,732,000	77,610,000
1951	42,950,729,000	1,776,264,000	569,048,000	97,238,000
1952	45,525,904,000	1,602,930,000	720,312,000	95,286,000
1953	47,889,793,000	1,700,874,000	905,770,000	73,321,000
1954	49,300,000,000	1,614,648,000	854,666,000	68,441,000

¹ The consumption data are on a calendar-year basis; the Federal tax collections are on a fiscal-year basis.

² These data include lubricating oils used for both industrial and automatic purposes.

³ There were diesel fuel tax collections in only fiscal years 1952-54.

⁴ Estimated.

APPENDIX II

State motor fuel tax collections, fiscal years 1950-54

State	1950	1951	1952	1953	1954
Alabama	\$29,881,000	\$33,207,000	\$36,929,000	\$40,046,000	\$42,837,000
Arizona	10,156,000	11,633,000	13,545,000	15,083,000	15,538,000
Arkansas	22,899,000	24,850,000	26,559,000	37,663,000	29,399,000
California	137,826,000	150,230,000	160,301,000	184,637,000	230,508,000
Colorado	20,559,000	22,485,000	24,350,000	25,690,000	27,048,000
Connecticut	18,682,000	20,354,000	21,466,000	22,857,000	24,362,000
Delaware	4,201,000	4,722,000	5,032,000	5,445,000	5,755,000
Florida	51,205,000	57,358,000	63,938,000	69,566,000	74,673,000
Georgia	47,376,000	53,903,000	51,639,000	54,253,000	57,332,000
Idaho	10,168,000	10,962,000	11,292,000	11,737,000	12,173,000
Illinois	56,339,000	61,602,000	82,435,000	97,217,000	116,288,000
Indiana	40,040,000	43,968,000	46,840,000	50,054,000	53,389,000
Iowa	27,325,000	29,787,000	31,620,000	31,449,000	41,004,000
Kansas	26,122,000	26,952,000	29,250,000	29,932,000	31,410,000
Kentucky	35,152,000	39,568,000	41,453,000	44,192,000	46,206,000
Louisiana	42,788,000	45,931,000	50,215,000	44,278,000	45,278,000
Maine	12,589,000	13,326,000	14,114,000	14,945,000	15,515,000
Maryland	23,117,000	25,734,000	28,135,000	30,739,000	38,085,000
Massachusetts	27,900,000	28,079,000	37,231,000	46,463,000	53,743,000
Michigan	46,871,000	51,478,000	78,951,000	82,625,000	88,913,000
Minnesota	34,193,000	36,834,000	38,556,000	39,954,000	42,649,000
Mississippi	23,361,000	29,256,000	32,450,000	33,574,000	35,281,000
Missouri	19,800,000	21,897,000	22,872,000	34,106,000	37,921,000
Montana	9,847,000	10,742,000	10,999,000	12,337,000	13,326,000
Nebraska	23,439,000	23,064,000	22,723,000	23,903,000	28,295,000
Nevada	3,618,000	4,210,000	4,861,000	5,934,000	6,388,000
New Hampshire	4,983,000	5,375,000	6,768,000	7,118,000	7,606,000
New Jersey	32,672,000	36,853,000	39,584,000	41,129,000	44,357,000
New Mexico	13,345,000	15,912,000	14,708,000	16,033,000	16,779,000
New York	90,095,000	97,175,000	102,494,000	108,328,000	110,740,000
North Carolina	52,836,000	64,575,000	69,648,000	73,821,000	75,853,000
North Dakota	4,776,000	6,510,000	7,454,000	7,348,000	7,561,000
Ohio	76,197,000	82,382,000	87,024,000	91,370,000	117,971,000
Oklahoma	36,393,000	39,741,000	42,514,000	44,813,000	46,560,000
Oregon	25,454,000	28,726,000	29,373,000	30,540,000	30,631,000
Pennsylvania	100,399,000	111,871,000	116,308,000	121,465,000	132,836,000
Rhode Island	6,224,000	6,536,000	6,889,000	7,364,000	7,988,000
South Carolina	25,248,000	32,068,000	36,178,000	38,426,000	39,495,000
South Dakota	6,588,000	7,838,000	9,516,000	10,267,000	10,661,000
Tennessee	41,685,000	45,782,000	49,600,000	52,876,000	56,072,000
Texas	76,432,000	87,279,000	95,684,000	104,734,000	109,839,000
Utah	7,696,000	8,486,000	10,859,000	12,192,000	12,703,000
Vermont	4,652,000	5,093,000	5,101,000	5,347,000	5,601,000
Virginia	42,728,000	46,978,000	49,101,000	57,170,000	56,724,000
Washington	37,333,000	41,472,000	43,954,000	46,271,000	47,966,000
West Virginia	16,878,000	18,451,000	19,006,000	19,512,000	20,460,000
Wisconsin	31,455,000	33,857,000	35,323,000	36,652,000	38,544,000
Wyoming	4,951,000	5,038,000	5,445,000	7,142,000	7,833,000
Total	1,544,474,000	1,710,160,000	1,870,297,000	2,018,599,000	2,218,097,000

In 1954 there were 9,578,561 privately owned trucks and buses registered in the United States. A preliminary estimate of the total privately and publicly owned trucks and buses is set at 10,042,000. Most of these truck and bus operators are engaged in interstate commerce. They travel on highways and byways that go over our toll roads, they cross our toll bridges, and they go through our toll tunnels. They get their registration licenses in each State.

If you will look at the following figures, you will see the number of automobiles manufactured in 1930, 1940, and 1950 through 1954, and also the increased number of tires manufactured each year. Now we get an idea of the impact of the American car owners, not only on the automobile industry, but on the tire industry as well.

APPENDIX III

Number of automobiles and automobile tires produced during 1930, 1940, 1950-54

Year	Automobiles 1	Automobile tires
1930	2,787,456	46,130,148
1940	3,717,385	50,965,429
1950	6,665,863	78,598,174
1951	5,338,436	65,545,941
1952	4,320,794	74,341,140
1953	6,116,948	81,454,605
1954	5,558,897	2 76,805,822

1 Production based on factory sales.
2 Preliminary estimate.

I would like to reemphasize and caution the membership that we cannot continue to expect the American car owner, the American trucker, and the American bus operator to carry this ever-increasing load. We have reached the danger point.

My district is part of Hudson County, N. J., where the density of traffic is probably the greatest in the Nation. Our families see the numbers of trucks and automobiles going from New York to Philadelphia and back. In addition, we have had the plague of unfair and unreasonable tolls charged by autonomous bodies. We have had these autonomous bodies take our municipal tax lands. The land then becomes tax free and lost to the municipality as a tax ratable. We have had traffic jam after traffic jam in our area. Land values have depreciated tremendously. We know something about cars, trucks, and buses, and have had them with us since they first started to roll on the highways. We can speak from experience. We want to make a constructive contribution. We are not concerned primarily in this with bondholders. We are concerned about car owners, truck owners, and bus operators. They help our economy. They provide jobs and payrolls.

The most important provision relating to the highway bill is the manner in which it will be financed. As an individual, I hope that the American car owner, trucker, and bus operator will not

again suffer increased and burdensome taxes to defray the cost of this entire program.

COULD YOU LIVE ON 90 CENTS AN HOUR?

(Mr. LANE asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. LANE. Mr. Speaker, where is this Nation going to find a market for all of its products and services when we keep millions of our fellow Americans in economic serfdom?

The Fair Labor Standards Act, intended to keep a floor under wages, and to help maintain national purchasing power, is a masterpiece of doubletalk. It is grossly unfair to many workers, and its standards are subhuman.

This is a Federal law, with a high-sounding title that conceals its callous disregard for the cost of existence, and its cynical exemptions in behalf of wage starving employers.

The present minimum wage of 75 cents an hour is a shocking travesty on economic justice.

Thirty dollars a week before taxes is no incentive for any store clerk to be a good citizen.

But what of the millions who are paid less, because their employers are conveniently excused from compliance with the law?

school system, will do much to save our youth.

Then, thirdly, religion. The church and the synagogue—when correctly understood and used by the parents—can and do play a major role in the prevention of delinquency. The house of God and the religious school must, however, not be regarded by parents as good places to which to send their children, but in which they have no personal interest. How naive can parents become when they say: "I sent them to church, didn't I? I sent them to Sunday school, didn't I? What kind of a church are you running? You must have a pretty bad Sunday school if my children are turning out this way."

Now, religious institutions, although they can be exceedingly effective and are effective in the training of character, cannot perform miracles. Such institutions can imbue the child with the highest concepts of morality and unselfishness only when his parents participate with him. Only then will the child consider these institutions important.

Fourthly, the influence of the community upon the child's growth and development. Good housing, it has been shown time and again, prevents delinquency. And recreational facilities, playgrounds and social centers, operated by trained personnel, are all unquestioned deterrents to delinquency. The work of youth organizations like the Boy Scouts, Girl Scouts, YMCA's, YWCA's, etc., all should be widely expanded so that more and more of our youth will come under their influence. The policy of the infiltration of street gangs by trained youth leaders that is being pursued by our own New York Youth Board is, to my mind, an excellent method of dealing with this problem. Yes, when the community influences are favorable, the child has a better chance to be the kind of citizen that his parents and that the community at large would want him to be.

Finally, it is well known that the moral climate of a community has its effect upon the youth. Stories of corruption involving important Government officials, shady business practices, stories of easy money and of gangsters who are glorified and become heroes, the effect of unwholesome movies, comic books, TV programs are not without their influence upon the young. Dr. Fine tells of a young thief who remarked to him: "Yes, I stole \$150 from a gas station. So what? How much did Governor Hoffman steal from the people of New Jersey?" It is this attitude that is very easily developed in the minds of impressionable youth. "If they can do it, if they can get away with it, why can't I?"

I shall not go into the improvements that must be made in the various agencies dealing with our youth after they have become delinquent—the juvenile police officers, the juvenile courts, improved foster homes, detention homes, training schools, etc.—but desire merely to emphasize the need for improving those media which will prevent juvenile delinquency, namely, the home, the school, the church and synagogue, the community, the morale climate. To achieve this purpose, we must stop thinking in terms of delinquent youth, but rather in terms of our delinquent society. We know the causes. We also know the cure. Our problem is not that we demand that something be done by someone else, but that we express our willingness to accept whatever responsibility devolves upon us as members of society and to make whatever financial sacrifices that may be necessary in order to build a finer, healthier, and more worthy community life for the young people of our country. No task confronting us is more important, none more essential to the well-being of our society.

During the war a new expression, crash program, came into frequent use. It means

that if something of the utmost importance, something involving the very life and death of our country had to be accomplished, then the question of financial cost was not to be considered at all. Thus, when it was decided to create an atomic bomb—even though no one was certain that it could be achieved—we did not hesitate to spend what was then, and still is, the astronomical sum of \$2 billion. We said then, and we say now, that whatever the cost, it was worth it.

Something of the same spirit animated the National Foundation for Infantile Paralysis when it embarked upon its dramatic program to stamp out this horrible disease. Untold millions of dollars were spent and will continue to be spent until this scourge is completely eliminated from the world. Who will say that its wasn't—and isn't—worth it?

Some such crash program, it seems to me, is required if we are to win the war against juvenile delinquency, a disease which is even more dreadful and more destructive than polio or any other physical ailment. Let us have more family counselors than we think we need. Let us build more and better schools and playgrounds than we think are necessary. Let us hire better teachers, more teachers and provide them with a wage to which they are entitled. Let us engage more youth directors than we believe we are going to need. The cost will go up into the hundreds of millions and billions of dollars, but who will say that it isn't worth it?

At the present time juvenile delinquency is problem number one in America. It is infinitely more serious than any other problem which we are confronted. The very existence of our civilization depends upon its solution. It must be solved and it can be solved and it will be solved, when the citizens of our Nation become aware of the responsibilities devolving upon them. Yes, punishment is necessary when crimes are committed, whether by juveniles or by adults. But that doesn't solve the problem. It is the delinquent society which creates delinquency that requires our attention.

In the 21st chapter of the Book of Deuteronomy a very strange procedure is described in connection with what is to take place when a slain person is found in a field and his murderer is unknown. The elders and the judges of the city nearest the spot where the body has been found are required to offer a sacrifice, wash their hands over it and then say, "Our hands have not shed this blood, neither have our eyes seen it. Forgive, O Lord Thy people Israel, whom Thou had redeemed, and suffer not innocent blood to remain in the midst of Thy people Israel." In commenting on this unusual proceeding, one of the ancient rabbis asked: "Why is it that the good people, the respectable people, the elders and the judges are called upon to swear that their hands were guiltless of this crime? Why were not the cutthroats, the thieves, and the known criminals of the community made to swear that they did not perpetrate this crime?" To these rhetorical questions he provided the answer: "In order that we might always realize that not the bad people, but the good people are responsible for the evils of a community; the evils of life will disappear when the good folk assume the responsibilities which belong to them." Amen.

LOSS OF UNITED STATES TRADE IN LATIN AMERICA

Mr. SMATHERS. Mr. President, to those of us who recognize the importance of the Latin American countries to the economic well-being of our Nation, the article which appeared in the July 1 issue of the Washington Post and Times Herald is indeed frightening. This article is entitled "United States Is

Losing Trade in Latin America." It goes on to state that Japan and Europe, including the Soviet bloc countries, are cutting into the trade of Latin America by offering lower prices and longer credit terms.

This assertion was contained in a United Nation's report which reviewed the economy of the Latin America countries for the year 1954.

Mr. President, the Department of Commerce reveals that our trade with Latin America has dropped by almost \$250 million in the past 2 years, and there is every indication that with our little attention to the affairs of the countries to the south of us, and increased attention on the part of the countries of Europe and the Soviet bloc countries that trade between Latin America and the United States will unfortunately continue to fall off.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the above-described article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES IS LOSING TRADE IN LATIN AMERICA

UNITED NATIONS, N. Y., June 30.—Japan and Europe, including Soviet bloc countries, are cutting into United States trade with Latin America by offering cheaper prices and easier credit terms, a U. N. report disclosed today. Soviet bloc trading was sharply on the upgrade, it said.

A review of Latin American economies for 1954 was made public here in advance of the meeting of the U. N. Economic Commission for Latin America starting August 29 in Bogota, Colombia.

Agriculture increases in Latin America as a whole kept up with a population increase and industry spurred 8.4 percent over 1953, but there were gloomy notes in the review. Investment in Latin America showed a declining trend. Balance of payments surplus was reduced by more than \$700 million.

During 1951 and 1953 imports of European rolling stock almost equaled those from the United States, the review noted. The United States also was losing ground in commercial vehicles, not only to Europe but also to Japan.

European exports to Latin America of machinery for the pulp, paper, and timber industries have more than doubled in 2 years, while those of the United States and Canada have fallen by 45 percent, the review said.

Japan was described as extremely active in textile-machinery sales.

Eastern Europe and Japan have provided strong competition in agricultural machinery, cutting considerably imports of United States tractors.

The United States still holds an edge in the sale of private automobiles and was showing recovery in agricultural machinery, oil drilling machinery and machine tools, the review said.

MULTIPLE USE OF SURFACE OF SAME TRACTS OF PUBLIC LANDS—CONFERENCE REPORT

Mr. ANDERSON. Mr. President, I submit a report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5891) to amend the act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other

purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. BARKLEY in the chair). The report will be read for the information of the Senate.

The legislative clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5891) to amend the act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with a further amendment as follows: On page 5, line 17, of the Senate engrossed amendment, after the words "United States" insert the words "subsequent to the location of the claim", and the Senate agree to the same.

CLINTON P. ANDERSON,
HENRY M. JACKSON,
JOSEPH C. O'MAHONEY,
EUGENE D. MILLIKIN,
ARTHUR V. WATKINS,

Managers on the Part of the Senate.

CLAIR ENGLE,
WALTER ROGERS
LEE METCALF,
JOHN P. SAYLOR,
WILLIAM A. DAWSON,

Managers on the Part of the House.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

CONSTRUCTION OF CERTAIN MILITARY, NAVAL, AND AIR FORCE INSTALLATIONS — CONFERENCE REPORT

Mr. STENNIS. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 6829) to authorize certain construction at military, naval, and Air Force installations, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of July 7, 1955, pp. 8661-8669, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. JACKSON. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a letter which I received from residents of Langley, Va.

The subcommittee did not know of the objection of the people of Langley, Va., to the possible location of the new CIA headquarters in that community.

I am not sure whether it has been finally decided that the headquarters will go to Langley, Va. I think, however, that certainly the people of that community should have an opportunity to be heard before the Appropriations Committee before any final decision is reached. The committee was unaware of the protest at the time the matter was being considered.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 8, 1955.

The Honorable HENRY M. JACKSON,
Senate Office Building,
Washington, D. C.

DEAR SENATOR JACKSON: We are residents and property owners of the Langley-Great Falls area of Fairfax County, Va., who are concerned over the possible construction of the Central Intelligence Agency headquarters in the neighborhood. On April 7 of this year CIA announced publicly that it was giving up any plan to locate in Langley. Then last week, without notice, language was written into a military construction bill which indicated that CIA was still very much interested in Langley as a possible site. We believe there are serious considerations against locating CIA in Langley that should be brought to the attention of the Congress.

Langley is a unique residential area of one-family homes on large lots, country places, and farms. There are no apartment buildings and virtually no commercial development. A large Government office building will bring great pressure for mass housing, commercial construction, used-car lots, and other changes which will destroy the character of the area.

Fairfax County is already hard-pressed to provide water, sewerage, schools, roads, police, and other facilities for a rapidly growing population. Water and sewerage may be arranged for an office building itself, but the great population increase which will follow will throw an intolerable burden on the community. For example, the water table is already falling in the county, and new mass housing in an area of individual wells will lower the table disastrously and dry up many existing wells.

To erect a large office building on this river front property and to build a super highway to it in the name of the George Washington Memorial Parkway is directly contrary to the purposes of the Capper-Crampton Act. The Congress in 1930 authorized the acquisition of the river front property, including the entire Virginia shore of the Potomac from below Chain Bridge to a point above Great Falls, for a memorial to George Washington and for "the protection and preservation of the natural scenery of the Gorge and the Great Falls of the Potomac" (46 Stat. 482).

The Public Roads tract at Langley with 1½ miles of riverfront is the only substantial piece of United States property on the

Virginia shore above Chain Bridge available for park purposes. Other such property is increasingly difficult to acquire. As with the more highly publicized Maryland shore of the Potomac, the interest of protecting the wilderness of the river and carrying out the statutory purposes of the Capper-Crampton Act must be balanced against the interest of providing access for the motorist. Neither consideration, however, suggests that large Government office buildings should be located on potential park land.

The McLean Citizens Association, drawing its members from the entire area, considered the problem at a special meeting and voted to oppose location of a CIA building in Langley. At a subsequent meeting the association recommended that park and recreation areas be designated for the area, including if possible the bulk of the Public Roads property at Langley. Of several sites now being considered by CIA, Langley is the only one in which the local citizens association has objected. In fact, other areas have pleaded with CIA to locate there and have offered free land and facilities.

No affirmative reason has been offered for location of a huge Government office building on potential park land, in the midst of an entirely residential area, against the wishes of the community and in the face of strongly pressed invitations to locate elsewhere. CIA has no need to have its employees work in rural residential surroundings. To locate in Langley would damage a unique community with no offsetting gain to CIA.

We are presenting our views in this letter to make clear that residents of the Langley area have not changed their opposition to a CIA building here. After the April 7 statement we assumed that the matter was closed. If Langley is again to be considered by CIA, we wish to be heard. Surely such a controversial proposal, with its serious effects on long-established Federal park policy and on the orderly development of a community, should receive full and careful study including an opportunity for all viewpoints to be presented.

Respectfully yours,

BENJAMIN LEE BIRD.
G. BOWDOIN CRAIGHILL, Jr.
ROGER FISHER.
MANNING GASCH.
ANTHONY LEWIS.
SAMUEL E. NEEL.
CYNTHIA ZIMMERMAN.

Mr. STENNIS. Mr. President, I have a short statement which is a summary of the conference report, and I ask unanimous consent that the statement may be printed in the RECORD at this point in my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR STENNIS ON CONFERENCE REPORT ON H. R. 6829, MILITARY CONSTRUCTION AUTHORIZATION BILL

A tabulation showing a comparison of the authorization contained in this bill as it passed the House, as it passed the Senate, and as has been agreed to in conference is as follows:

Comparative summary of military construction authorization bill (H. R. 6829)

	House	Senate	Conference
Army.....	\$551,105,000	\$527,027,000	\$533,904,000
Navy.....	596,140,900	571,620,300	564,224,300
Air Force.....	1,165,453,000	1,205,170,000	1,207,902,000
Chairman, Joint Chiefs of Staff.....	300,000		
CIA.....	56,000,000	53,500,000	54,500,000
Total.....	2,368,998,900	2,357,317,300	2,360,530,300

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued July 13, 1955
For actions of July 12, 1955
84th-1st, No. 117

CONTENTS

ACP.....3	Food and drugs.....7	Penalty mail.....10
Air conditioning.....3	Foreign aid.....9,15,28	Personnel.....6,20,22
Appropriations..3,12,19,23	Foreign trade.....4,17	Property.....24
ARS.....3	Forestry.....2	Reclamation.....8,27
Bonding employees.....13	Forest Service.....3	Rural development.....3
Buildings.....3	Gasoline tax.....26	Strategic materials.....3
CCC sales manager.....3	Generating plant.....3	Surplus commodities4,15,17,27
Civil defense.....3	Immigration.....14	Travel expenses.....1,18
Claims.....3	Income tax.....11	Uniform allowances.....3
Defense production.....18	Lands.....16	Warehouse management....3
Drought.....3	Legislative program..12,18	Weather.....25
Electrification.....27	Low-income farmers.....21	Working capital fund.....3
Farm credit.....5,21	Mining.....2	
Farm program.....29		

HIGHLIGHTS: House agreed to conference reports on travel expense allowance bill and forest mining bill. House committee reported supplemental appropriation bill and bill to provide retirement credit for certain State service. House passed farm credit bill. Reps. Cooley and Hope introduced bills to provide credit for low-income farmers.

HOUSE

1. **TRAVEL ALLOWANCE.** Agreed to the conference report on H. R. 6295, the per diem allowance and mileage allowance bill (p. 8853).
2. **MINING; FORESTS.** Agreed to the conference report on H. R. 5891, providing for multiple use of the surface of the same tracts of the public lands (p. 8853). This bill is now ready for the President.
3. **APPROPRIATIONS.** The Appropriations Committee reported without amendment H. R. 7278, the supplemental appropriation bill, 1956 (H. Rept. 1116) (pp. 8856, 8905). The bill includes the following items of interest to this Department:

Rural development program (for low-income farmers), \$33,000,000, as follows:
ARS, \$380,000; FES, \$1,285,000; SCS, \$150,000; AMS, \$250,000; OGC, \$36,000;
Office of the Secretary, \$19,000; Information, \$30,000; and Farmers' Home
Administration as follows: Appropriation, \$850,000; production and subsis-
tence loans authorization, \$15,000,000; and small-farm development loans
authorization, \$15,000,000.

The committee report states that this program is to assist low-income farmers through improving production and marketing practices, by shifting from full-time to part-time farming, by encouraging off-farm employment wherever possible, and by appealing to local states and communities to help at the local level..." The report states: "With some misgivings, the Committee is approving the full amount requested, since the serious plight of the farmers throughout the country is such as to require the encouragement of every action which may help, even if only in a small way... The committee is going along with the President's proposal in the hope that it will enable him and the Secretary of Agriculture to recognize that reductions in the level of price support, without proper provision for meeting increased farm costs, and reduced acreage made necessary by failure of the Department to sell in world markets at competitive prices, are the factors which are creating the very conditions which they hope to correct..." The report recommends (1) adoption of "a plan which will maintain reasonable prices for agricultural commodities" and (2) "that agricultural commodities acquired by the Commodity Credit Corporation as a part of a price-support program are sold on a truly competitive basis..." A number of examples are given in an attempt to show that "while the Department holds a convenient price umbrella over world production, American financial interests have increased their production in foreign countries as fast as the American farmers have been reduced at home... And such interests are well represented on Department of Agriculture advisory committees and in organizations which advocate the present policy of holding U. S. farm production off world markets at competitive prices."

Regarding the research and extension items, the committee report points out recent increases in the programs and states: "The Committee is in full sympathy with these programs...a majority of the members of the Committee have some doubt as to whether their continued expansion is a satisfactory solution to the present difficulties of low-income farm families..."

The report includes the following statement regarding the Farmers' Home Administration items: "The Committee has...been disturbed by recent efforts of the Department to reduce the loan funds for this agency and reduce its supervisory activities. The record will show that Congress has consistently provided funds beyond the levels requested by the Department in recent years. The Committee has questioned recent efforts of the Department to curtail and eliminate county offices, and to set up district offices as a substitute for the county and state offices. It believes that visits of district supervisors will tend to give less actual aid to rural low-income families, because the county supervisors will tend to wait for the district supervisor to make decisions. The Committee has always believed that close direct contact with rural families is essential to their success in making a living on the farm, and the county supervisor is in the best position to render such service."

The report states that the bill provides for the extension funds to be distributed on the existing basis, since the committee "lacks authority to waive present formulas in the basic law..."

Authorization for use of \$25,000 for an ARS building at Miles City, Mont., to replace an equipment repair shop destroyed by fire.

Authority to use not to exceed \$5,000,000 of the ACP appropriation for the fiscal year 1955 to meet emergency drought conditions in the southern great plains by assisting farmers to carry out emergency wind erosion control measures, including the planting of emergency crops to hold the soil.

Authorization of a CCC sales manager at GS-17.

Permission to use certain appropriations for uniform allowances as authorized by the act of May 13, 1955.

Under Federal Civil Defense Administration, the bill appropriates \$8,650,000 (Budget estimate, \$13,000,000) to initiate a program to obtain detailed evacuation, shelter, and other operational plans and related research

passing of one who served honorably and well my Third District of Maine in the 73d Congress.

On the last day of his 83d year, Hon. John Gregg Utterback, of Bangor, Maine, departed this life while still appearing to enjoy the physical and mental vigor which distinguished him throughout his career as a businessman and leading Democrat of his time.

Born in Franklin, Johnson County, Ind., July 12, 1872, he brought to our time the best of what is sometimes slightly referred to as "horse and buggy days." During the last half century the name of Utterback has become well and favorably known in Maine, where your late colleague engaged in the retail sale of carriages and, as progress overtook our State, in the sale of automobiles and fine leathers. Enjoying the confidence and esteem of his fellow citizens, and having a strong sense of civic duty, Mr. Utterback served his city, State, and district in those positions of responsibility where satisfaction must be in service well done rather than the financial return. A Democrat, he was councilman, alderman and mayor of the city of Bangor, usually a Republican stronghold, and was chosen as delegate to the Democratic National Convention in 1932, the year he was elected Representative to Congress from Maine's Third District, remaining here for one term only. Appointed United States marshal in 1935, he resigned in 1944, and with his sons engaged in extensive business enterprises in his home community.

A handsome man of pleasing personality and gracious mien, the late John G. Utterback will be sorely missed by a large circle of friends in every station of life. It was not my fortune to know him well, but that he gave to his family, his party, and his country the best of his recognized abilities and devotion is well known to all of us.

Friendly sympathy is extended to his widow and children with deepest sincerity this day.

Mr. Speaker, I ask unanimous consent that all Members who desire to do so may extend their remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Maine?

There was no objection.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. McINTIRE. I am glad to yield to the distinguished majority leader.

Mr. McCORMACK. Mr. Speaker, I am very sorry to hear of the death of my good friend, John Utterback. While he served in this body for but one term, he made a marked impression upon his colleagues of that particular Congress. He was a remarkable gentleman, a strong personality. He was a very sincere and devoted representative of the interests of his people. He served the people of his district and the people of the State of Maine with sincerity, with character, with ability, and in a most effective manner, obtaining unusual results during the 2 years he served in this body.

I join with the gentleman from Maine [Mr. McINTIRE] in extending to his loved

ones my deep sympathy in their bereavement.

Mr. HALE. Mr. Speaker, I am saddened to learn this morning of the death of John Utterback, of Bangor, Maine, who represented the Third Maine District in this body in the 73d Congress.

Mr. Utterback was born in Indiana in 1872, came to settle in Bangor in 1905, entered business there, served on the city council, and was mayor of the city in 1914 and 1915.

After his service in the House of Representatives, he was named United States marshal for the State of Maine and served in that office from 1935 through 1944. It was in his capacity as marshal that I had occasion to see Mr. Utterback most frequently.

He was a modest man who served diligently in every post that he ever held. He was much esteemed in Maine and his death will be widely mourned. I extend my sympathy to his bereaved family.

GOVERNMENT EMPLOYEES' TRAVEL EXPENSE ALLOWANCE

Mr. FASCELL. Mr. Speaker, I call up the conference report on the bill (H. R. 6295) to provide an increased maximum per diem allowance for subsistence and travel expenses, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 11, 1955.)

Mr. FASCELL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to; and a motion to reconsider was laid on the table.

AMENDING THE ACT OF JULY 31, 1947, AND THE MINING LAWS TO PROVIDE FOR MULTIPLE USE OF THE SURFACE OF THE SAME TRACTS OF THE PUBLIC LANDS

Mr. ENGLE. Mr. Speaker, I call up the conference report on the bill (H. R. 5891) to amend the act of July 31, 1947 (61 Stat. 681), and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 11, 1955.)

The conference report was agreed to; and a motion to reconsider was laid on the table.

THE DIXON-YATES CONTRACT

(Mr. ABERNETHY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABERNETHY. Mr. Speaker, the Dixon-Yates contract which was born in secrecy and nurtured in darkness is dead. What it will cost the taxpayers to bury it we do not yet know. It is likely to be considerable.

We would have thought that the administration in its confession of error could have made it with some modicum of grace. That was not the case. In ending the Dixon-Yates contract the administration has sought to impose on the city of Memphis a stipulation which continues to demonstrate its malignancy toward the Tennessee Valley Authority.

The administration, we learn, is demanding that if the city of Memphis is willing to construct its own electric power plant, as it has demonstrated it is, that plant must be cut entirely out of the TVA system.

The administration is trying to enforce a rule whereby Memphis and its power plant is to be cut bodily away from TVA.

This is a strange thing. It is an absolute reversal of the plan for the Dixon-Yates plant which was to produce power to be fed directly into the TVA system.

To demand that a wall be constructed and maintained between TVA and the new Memphis plant will weaken both. And that is precisely what the administration wants. As the price of abandoning the ill-starred Dixon-Yates plant the administration demands that Memphis now build a wall around itself. It demands that no matter what the future needs of itself or the TVA or other communities in the TVA area, that the Memphis plant shall not be connected with the power lines of the TVA. No matter what emergency might arise power could not flow from one system to the other.

This demand goes against common sense. It goes against common practice. It is born out of common malice.

It is common practice not only in the TVA area but throughout the United States for power systems to be interconnected to form a grid. In the TVA area the transmission system is connected directly with a number of privately owned transmission systems. This enables the unimpeded transfer of power from one system to another. This is the normal and efficient means of meeting emergencies in the demand for power. It is such an interconnection between the new plant of the city of Memphis and the TVA system which President Eisenhower seeks to forbid.

The administration was defeated in its effort to superimpose the Dixon-Yates plan on TVA. It became afraid of the political consequences of defying the people of the TVA area and those people the country over who have taken pride in its work. It became afraid of the political consequences of the revelations

which are now taking place as to the genesis of the Dixon-Yates contract. It sensed the growing public outrage with the revelations of the secret finagling by New York bankers and officers of the Budget Bureau and the Atomic Energy Commission. Yet it could not bring an end to Dixon-Yates without one more effort to damage the TVA and the city of Memphis.

The condition demanded by President Eisenhower that the power system of Memphis be walled off TVA cannot and must not be allowed. If the present administration insists on such a condition, it will bring upon itself the same condemnation which it suffered from its attempt to foist the Dixon-Yates contract on the people of this Nation. We will not stand for it.

DEMOCRATS' TWO-FACED FOREIGN POLICY

(Mr. DEROUNIAN asked and was given permission to address the House for 1 minute.)

Mr. DEROUNIAN. Mr. Speaker, in a few days President Eisenhower leaves for the top level, Big Four Conference. He goes with the full support of Congress. He goes with the overwhelming well wishes of the American people. They are united behind him in his coming efforts for peace as perhaps never before.

The coming conference, to all decent, honest men, is above party politics. They know for the good of America, it has to be.

There is apparently one lone dissenter.

There is one man who apparently believes that this is the moment to cross the seas, land in Europe, and undermine with doubt the unity and solidity of our allies on which so much depends.

This man is the laughingly called Honest Ave Harriman.

Let me quote what he recently said in London:

The American people are disillusioned with President Eisenhower's policies.

That is an untrue statement, as every Member of this body knows.

This is as much as saying that in his journey to Geneva, the President goes unsupported by the American people.

This is a deliberate misrepresentation of the facts. This is pure politics at its worst.

Could this statement have been made in sheer stupidity? Harriman is supposed to have at least average intelligence. He is supposed to be an experienced diplomat. He was one of the master caller-of-the-shots at the now infamous Yalta Conference.

I guess Harriman has started his campaign for the Presidential nomination in 1956. With calculation and deliberateness, he apparently is trying to undermine Dwight D. Eisenhower, at the cost of world peace, if necessary, in order to gain his own selfish, political ambition.

And how about the lofty support the Democrats claim they give our President in his foreign policy? Once before, the former Democratic national chairman, Steven Mitchell, torpedoed our effectiveness at a conference by saying it would be a failure, even before our Secretary of

State had left the United States. Now there are no less than two foreign policies for the Democratic Party. Is it not time that they agreed on one?

ECONOMIC SITUATION IN 1954

(Mr. LATHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include a newspaper article.)

Mr. LATHAM. Mr. Speaker, today's newspapers carry the disclosure that complete records of the Commerce Department show the 1954 recession to have been only half as severe as previously reported.

Members of this body have heard—from the moaners and groaners—much of this "recession." Some of the doomers even warned that the recession—that almost was not—actually heralded a coming depression so severe as to endanger the Nation's economy.

To most of us, yesterday's Commerce Department announcement came as a confirmation of our faith in the American way. A careful look at more complete records has cut in half the previous production loss estimates for the year of 1954 and proved that the transition from a war economy to a peacetime economy was accomplished with a minimum of economic disruption.

The Commerce Department report said the Nation's total production of goods and services hit a record annual rate of about \$375 billion in the first quarter of this year and continued to climb substantially in the second quarter to an estimated new record level of about \$380 billion.

The upward revision of the 1954 production record resulted in a new estimate for the last quarter of 1954 of \$367 billion compared with the old estimate of \$362 billion.

Embarrassing as it may be to political enemies of the administration, it is nonetheless heartening to most of the American people to find that a nation at peace can also reach new heights of prosperity, and the outlook ahead is even brighter.

Mr. Speaker, I include an article from the first page of today's Washington Post and Times Herald:

BUSINESS PEAK FOUND HIGHER THAN EXPECTED—NEW STUDY ALSO SHOWS 1954 RECESSION WAS Milder THAN REPORTED

(By Frank O'Brien)

The Commerce Department said yesterday the 1954 recession was only half as severe as it previously reported, and recovery this year is carrying the economy to peaks higher than previously suspected.

The Department said the Nation's total production of goods and services hit a record annual rate of about \$375.25 billion in the first quarter of this year, and in the second quarter continued to climb substantially.

This would indicate a further increase of something like \$4 billion in the annual rate of production during April, May, and June, to a new record level of nearly \$380 billion.

The new gross national product report was based on more complete information than was available when the Commerce Department's previous report was published in May.

It was further influenced by an analysis issued late this spring by the Internal Revenue Service, on corporate and personal income during 1952. This gave the Commerce

Department new benchmarks against which to measure and assess its 1954 information.

The outstanding results of the revision were:

Total economic activity fell off by approximately \$4 billion, from a level of \$364.5 billions in the boom year of 1953 to \$360.5 billions in the recession year of 1954, a production loss of just over 1 percent.

This cut in half the previous production loss estimate during the recession.

The upward revision of the 1954 production record resulted in a new estimate that in the last quarter of 1954, when production was reviving, the economy was producing goods and services at an annual rate of \$367.1 billion, compared with the old estimate of \$362 billions.

STATE GOVERNMENTS AND UNEMPLOYMENT INSURANCE

(Mr. CURTIS of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CURTIS of Missouri. Mr. Speaker, all too often the jeremiads of modern prophets are forgotten in the unpredicted sunshine of the present. I think it is important to refer now and again to the predictions of business recession and vast unemployment made by the New Deal wing of the Democratic Party when they were intent on scaring up enough votes to defeat the Republican congressional candidates. It is important because enough people were frightened by these false prophecies so that many Republican candidates were defeated. It is important that the people be kept mindful that these prophets are not to be completely trusted.

And so on July 8, 1954, we had on the floor of the House for debate H. R. 9709, a bill to extend and improve the unemployment-compensation program. The statements and predictions of certain Democratic leaders who were definitely not supporting President Eisenhower's program in this matter, as they have not supported it in so many other matters, is well worth reading. The debate begins on page 9490 of the CONGRESSIONAL RECORD of that date.

Aside from the gloom and doom predicted, which was not forthcoming, these prophets were accusing the administration of—let me quote Congressman DINGELL:

The administration has completely side-stepped its responsibility * * * in that it has expressed its concern about insufficient insurance payments both as to size and duration, but has recommended to the States that they take action to correct the deficiencies. "Buckpassing" in typical Army style comes naturally in this administration (p. 9495).

Congressman FORAND said—page 9496:

They have become very successful in playing both ends against the middle—

Referring to the opponents of adequate unemployment insurance—

and take full advantage of the situation which the present administration has got itself into by insisting that improvements in payments and their duration should be made at the State levels.

The issue, of course, was whether this administration was to change the basic Federal-State relationship in the unem-

Public Law 167 - 84th Congress
Chapter 375 - 1st Session
H. R. 5891

AN ACT

To amend the Act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of July 31, 1947 (61 Stat. 681), is amended to read as follows:

"SECTION 1. The Secretary, under such rules and regulations as he may prescribe, may dispose of mineral materials (including but not limited to common varieties of the following: sand, stone, gravel, pumice, pumicite, cinders, and clay) and vegetative materials (including but not limited to yucca, manzanita, mesquite, cactus, and timber or other forest products) on public lands of the United States, including, for the purposes of this Act, land described in the Acts of August 18, 1937 (50 Stat. 874), and of June 24, 1954 (68 Stat. 270), if the disposal of such mineral or vegetative materials (1) is not otherwise expressly authorized by law, including, but not limited to, the Act of June 28, 1934 (48 Stat. 1269), as amended, and the United States mining laws, and (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. Such materials may be disposed of only in accordance with the provisions of this Act and upon the payment of adequate compensation therefor, to be determined by the Secretary: *Provided, however,* That, to the extent not otherwise authorized by law, the Secretary is authorized in his discretion to permit any Federal, State, or Territorial agency, unit or subdivision, including municipalities, or any association or corporation not organized for profit, to take and remove, without charge, materials and resources subject to this Act, for use other than for commercial or industrial purposes or resale. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the department headed by the Secretary or of a State, Territory, county, municipality, water district or other local governmental subdivision or agency, the Secretary may make disposals under this Act only with the consent of such other Federal department or agency or of such State, Territory, or local governmental unit. Nothing in this Act shall be construed to apply to lands in any national park, or national monument or to any Indian lands, or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians. As used in this Act, the word "Secretary" means the Secretary of the Interior except that it means the Secretary of Agriculture where the lands involved are administered by him for national forest purposes or for the purposes of title III of the Bankhead-Jones Farm Tenant Act or where withdrawn for the purpose of any other function of the Department of Agriculture."

Sec. 2. That section 3 of the Act of July 31, 1947 (61 Stat. 681), as amended by the Act of August 31, 1950 (64 Stat. 571), is amended to read as follows:

"All moneys received from the disposal of materials under this Act shall be disposed of in the same manner as moneys received from the sale of public lands, except that moneys received from the disposal of materials by the Secretary of Agriculture shall be disposed of in the same manner as other moneys received by the Department of Agriculture from the administration of the lands from which the disposal of materials is made, and except that revenues from the lands described in the Act of August 28, 1937 (50 Stat. 874), and the Act of June 24, 1954 (68 Stat. 270), shall be disposed of in accordance with said Acts

Public lands.
43 USC 1185.

Materials
disposal.

43 USC 1181a-
1181j.

43 USC 315
et seq., 1171.

50 Stat. 525.
7 USC 1010 et
seq.

43 USC 1187.

Moneys re-
ceived.

69 Stat. 367.
69 Stat. 368.

43 USC 1181a-
1181j.

48 USC 353.

and except that moneys received from the disposal of materials from school section lands in Alaska, reserved under section 1 of the Act of March 4, 1915 (38 Stat. 1214), shall be set apart as separate and permanent funds in the Territorial Treasury, as provided for income derived from said school section lands pursuant to said Act."

Common varieties.

SEC. 3. A deposit of common varieties of sand, stone, gravel, pumice, pumicite, or cinders shall not be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so as to give effective validity to any mining claim hereafter located under such mining laws: *Provided, however,* That nothing herein shall affect the validity of any mining location based upon discovery of some other mineral occurring in or in association with such a deposit. "Common varieties" as used in this Act does not include deposits of such materials which are valuable because the deposit has some property giving it distinct and special value and does not include so-called "block pumice" which occurs in nature in pieces having one dimension of two inches or more.

Unpatented mining claims Restrictions.

SEC. 4 (a) Any mining claim hereafter located under the mining laws of the United States shall not be used, prior to issuance of patent therefor, for any purposes other than prospecting, mining or processing operations and uses reasonably incident thereto.

Timber.

(b) Rights under any mining claim hereafter located under the mining laws of the United States shall be subject, prior to issuance of patent therefor, to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof (except mineral deposits subject to location under the mining laws of the United States). Any such mining claim shall also be subject, prior to issuance of patent therefor, to the right of the United States, its permittees, and licensees, to use so much of the surface thereof as may be necessary for such purposes or for access to adjacent land: *Provided, however,* That any use of the surface of any such mining claim by the United States, its permittees or licensees, shall be such as not to endanger or materially interfere with prospecting, mining or processing operations or uses reasonably incident thereto: *Provided further,* That if at any time the locator requires more timber for his mining operations than is available to him from the claim after disposition of timber therefrom by the United States, subsequent to the location of the claim, he shall be entitled, free of charge, to be supplied with timber for such requirements from the nearest timber administered by the disposing agency which is ready for harvesting under the rules and regulations of that agency and which is substantially equivalent in kind and quantity to the timber estimated by the disposing agency to have been disposed of from the claim: *Provided further,* That nothing in this Act shall be construed as affecting or intended to affect or in any way interfere with or modify the laws of the States which lie wholly or in part westward of the ninety-eighth meridian relating to the ownership, control, appropriation, use, and distribution of ground or surface waters within any unpatented mining claim.

69 Stat. 368.
69 Stat. 369.

(c) Except to the extent required for the mining claimant's prospecting, mining or processing operations and uses reasonably incident thereto, or for the construction of buildings or structures in connection therewith, or to provide clearance for such operations or uses, or to the extent authorized by the United States, no claimant of any mining claim hereafter located under the mining laws of the United States shall, prior to issuance of patent therefor, sever, remove, or use any vegetative or other surface resources thereof which are subject to management or disposition by the United States under the pre-

ceding subsection (b). Any severance or removal of timber which is permitted under the exceptions of the preceding sentence, other than severance or removal to provide clearance, shall be in accordance with sound principles of forest management.

SEC. 5. (a) The head of a Federal department or agency which has the responsibility for administering surface resources of any lands belonging to the United States may file as to such lands in the office of the Secretary of the Interior, or in such office as the Secretary of the Interior may designate, a request for publication of notice to mining claimants, for determination of surface rights, which request shall contain a description of the lands covered thereby, showing the section or sections of the public land surveys which embrace the lands covered by such request, or if such lands are unsurveyed, either the section or sections which would probably embrace such lands when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument.

Notices to
mining claim-
ants.
Publication.

The filing of such request for publication shall be accompanied by an affidavit or affidavits of a person or persons over twenty-one years of age setting forth that the affiant or affiants have examined the lands involved in a reasonable effort to ascertain whether any person or persons were in actual possession of or engaged in the working of such lands or any part thereof, and, if no person or persons were found to be in actual possession of or engaged in the working of said lands or any part thereof on the date of such examination, setting forth such fact, or, if any person or persons were so found to be in actual possession or engaged in such working on the date of such examination, setting forth the name and address of each such person, unless affiant shall have been unable through reasonable inquiry to obtain information as to the name and address of any such person, in which event the affidavit shall set forth fully the nature and results of such inquiry.

The filing of such request for publication shall also be accompanied by the certificate of a title or abstract company, or of a title abstractor, or of an attorney, based upon such company's abstractor's, or attorney's examination of those instruments which are shown by the tract indexes in the county office of record as affecting the lands described in said request, setting forth the name of any person disclosed by said instruments to have an interest in said lands under any unpatented mining claim heretofore located, together with the address of such person if such address is disclosed by such instruments of record. "Tract indexes" as used herein shall mean those indexes, if any, as to surveyed lands identifying instruments as affecting a particular legal subdivision of the public land surveys, and as to unsurveyed lands identifying instruments as affecting a particular probable legal subdivision according to a projected extension of the public land surveys.

69 Stat. 369.

Thereupon the Secretary of the Interior, at the expense of the requesting department or agency, shall cause notice to mining claimants to be published in a newspaper having general circulation in the county in which the lands involved are situate.

69 Stat. 370.

Such notice shall describe the lands covered by such request, as provided heretofore, and shall notify whomever it may concern that if any person claiming or asserting under, or by virtue of, any unpatented mining claim heretofore located, rights as to such lands or any part thereof, shall fail to file in the office where such request for publication was filed (which office shall be specified in such notice) and within one hundred and fifty days from the date of the first publication of such notice (which date shall be specified in such notice), a

verified statement which shall set forth, as to such unpatented mining claim—

- (1) the date of location;
- (2) the book and page of recordation of the notice or certificate of location;
- (3) the section or sections of the public land surveys which embrace such mining claims; or if such lands are unsurveyed, either the section or sections which would probably embrace such mining claim when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument;
- (4) whether such claimant is a locator or purchaser under such location; and
- (5) the name and address of such claimant and names and addresses so far as known to the claimant of any other person or persons claiming any interest or interests in or under such unpatented mining claim;

such failure shall be conclusively deemed (i) to constitute a waiver and relinquishment by such mining claimant of any right, title, or interest under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, and (ii) to constitute a consent by such mining claimant that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, and (iii) to preclude thereafter, prior to issuance of patent, any assertion by such mining claimant of any right or title to or interest in or under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims.

If such notice is published in a daily paper, it shall be published in the Wednesday issue for nine consecutive weeks, or, if in a weekly paper, in nine consecutive issues, or if in a semiweekly or triweekly paper, in the issue of the same day of each week for nine consecutive weeks.

Within fifteen days after the date of first publication of such notice, the department or agency requesting such publication (1) shall cause a copy of such notice to be personally delivered to or to be mailed by registered mail addressed to each person in possession or engaged in the working of the land whose name and address is shown by an affidavit filed as aforesaid, and to each person who may have filed, as to any lands described in said notice, a request for notices, as provided in subsection (d) of this section 5, and shall cause a copy of such notice to be mailed by registered mail to each person whose name and address is set forth in the title or abstract company's or title abstractor's or attorney's certificate filed as aforesaid, as having an interest in the lands described in said notice under any unpatented mining claim heretofore located, such notice to be directed to such person's address as set forth in such certificate; and (2) shall file in the office where said request for publication was filed an affidavit showing that copies have been so delivered or mailed.

(b) If any claimant under any unpatented mining claim heretofore located which embraces any of the lands described in any notice published in accordance with the provisions of subsection (a) of this section 5, shall fail to file a verified statement, as above provided, within one hundred and fifty days from the date of the first publication of such notice, such failure shall be conclusively deemed, except as otherwise provided in subsection (e) of this section 5, (i) to constitute a waiver and relinquishment by such mining claimant of any right, title,

69 Stat. 370.

69 Stat. 371.

Failure to
file veri-
fied state-
ment.

or interest under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, and (ii) to constitute a consent by such mining claimant that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, and (iii) to preclude thereafter, prior to issuance of patent, any assertion by such mining claimant of any right or title to or interest in or under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims.

(c) If any verified statement shall be filed by a mining claimant as provided in subsection (a) of this section 5, then the Secretary of Interior shall fix a time and place for a hearing to determine the validity and effectiveness of any right or title to, or interest in or under such mining claim, which the mining claimant may assert contrary to or in conflict with the limitations and restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims, which place of hearing shall be in the county where the lands in question or parts thereof are located, unless the mining claimant agrees otherwise. Where verified statements are filed asserting rights to an aggregate of more than twenty mining claims, any single hearing shall be limited to a maximum of twenty mining claims unless the parties affected shall otherwise stipulate and as many separate hearings shall be set as shall be necessary to comply with this provision. The procedures with respect to notice of such a hearing and the conduct thereof, and in respect to appeals shall follow the then established general procedures and rules of practice of the Department of the Interior in respect to contests or protests affecting public lands of the United States. If, pursuant to such a hearing the final decision rendered in the matter shall affirm the validity and effectiveness of any mining claimant's so asserted right or interest under the mining claim, then no subsequent proceedings under this section 5 of this Act shall have any force or effect upon the so-affirmed right or interest of such mining claimant under such mining claim. If at any time prior to a hearing the department or agency requesting publication of notice and any person filing a verified statement pursuant to such notice shall so stipulate, then to the extent so stipulated, but only to such extent, no hearing shall be held with respect to rights asserted under that verified statement, and to the extent defined by the stipulation the rights asserted under that verified statement shall be deemed to be unaffected by that particular published notice.

(d) Any person claiming any right under or by virtue of any unpatented mining claim heretofore located and desiring to receive a copy of any notice to mining claimants which may be published as above provided in subsection (a) of this section 5, and which may affect lands embraced in such mining claim, may cause to be filed for record in the county office of record where the notice or certificate of location of such mining claim shall have been recorded, a duly acknowledged request for a copy of any such notice. Such request for copies shall set forth the name and address of the person requesting copies and shall also set forth, as to each heretofore located unpatented mining claim under which such person asserts rights—

- (1) the date of location;
- (2) the book and page of the recordation of the notice or certificate of location; and
- (3) the section or sections of the public land surveys which embrace such mining claim; or if such lands are unsurveyed, either the section or sections which would probably embrace such

Hearings.

Requests for
copies of
notices.
69 Stat. 371.
69 Stat. 372.

mining claim when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument.

Other than in respect to the requirements of subsection (a) of this section 5 as to personal delivery or mailing of copies of notices and in respect to the provisions of subsection (e) of this section 5, no such request for copies of published notices and no statement or allegation in such request and no recordation thereof shall affect title to any mining claim or to any land or be deemed to constitute constructive notice to any person that the person requesting copies has, or claims, any right, title, or interest in or under any mining claim referred to in such request.

Failure to
meet notice
requirements.

(e) If any department or agency requesting publication shall fail to comply with the requirements of subsection (a) of this section 5 as to the personal delivery or mailing of a copy of notice to any person, the publication of such notice shall be deemed wholly ineffectual as to that person or as to the rights asserted by that person and the failure of that person to file a verified statement, as provided in such notice, shall in no manner affect, diminish, prejudice or bar any rights of that person.

Waiver of
rights.

SEC. 6. The owner or owners of any unpatented mining claim heretofore located may waive and relinquish all rights thereunder which are contrary to or in conflict with the limitations or restrictions specified in section 4 of this Act as to hereafter located unpatented mining claims. The execution and acknowledgment of such a waiver and relinquishment by such owner or owners and the recordation thereof in the office where the notice or certificate of location of such mining claim is of record shall render such mining claim thereafter and prior to issuance of patent subject to the limitations and restrictions in section 4 of this Act in all respects as if said mining claim had been located after enactment of this Act, but no such waiver or relinquishment shall be deemed in any manner to constitute any concession as to the date of priority of rights under said mining claim or as to the validity thereof.

Limitation of
existing
rights, etc.

SEC. 7. Nothing in this Act shall be construed in any manner to limit or restrict or to authorize the limitation or restriction of any existing rights of any claimant under any valid mining claim heretofore located, except as such rights may be limited or restricted as a result of a proceeding pursuant to section 5 of this Act, or as a result of a waiver and relinquishment pursuant to section 6 of this Act; and nothing in this Act shall be construed in any manner to authorize inclusion in any patent hereafter issued under the mining laws of the United States for any mining claim heretofore or hereafter located, of any reservation, limitation, or restriction not otherwise authorized by law, or to limit or repeal any existing authority to include any reservation, limitation, or restriction in any such patent, or to limit or restrict any use of the lands covered by any patented or unpatented mining claim by the United States, its lessees, permittees, and licensees which is otherwise authorized by law.

69 Stat. 372.
69 Stat. 373.

Approved July 23, 1955.

